THE NATIONAL ARCHIVES LITTERA SCRIPTA MANET

FEDERAL REGISTER

VOLUME 6 NUMBER 234

1934 OF THE UNITED STATES

Washington, Wednesday, December 3, 1941

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER II—COMMODITY CREDIT CORPORATION

[1941 C. C. C. Soybean Form 1]

PART 226—1941 SOYBEAN LOANS

INSTRUCTIONS

These instructions are issued pursuant to the provisions of Title III—section 302 (a) of the Agricultural Adjustment Act of 1938, as amended.

Commodity Credit Corporation has authorized the making of loans in accordance with these instructions upon the security of soybeans stored on farms and in approved warehouses.

Sec.

§ 226.1 *Definitions.* For the purpose of these instructions and the notes and chattel mortgages related thereto, the terms shall be construed, respectively, to mean:

(a) *Eligible producer.* Any person partnership, association, or corporation, producing soybeans as landlord, landowner, or tenant, upon whose farm the 1941 total soil-depleting acreage does not exceed the total soil-depleting acreage allotment established for the farm under the 1941 Agricultural Conservation Program.

(b) *Eligible soybeans.* Soybeans of any class, grading No. 4 or better, which were produced in 1941, the beneficial interest to which is and always has been in the eligible producer, will be eligible for a loan; except that soybeans grading weevily, or which are musty, sour, heating, or have any commercially objectionable foreign odor, or which contain in excess of 15 percent moisture if stored on the farm, or in excess of 18 percent moisture if stored in approved warehouses, shall not be eligible for a loan.

(c) *Eligible storage.* Eligible storage shall include approved warehouses and farm storage meeting the following respective requirements:

(1) Warehouses which have met the requirements of Commodity Credit Corporation, and have executed a Uniform Grain Storage Agreement (C.C.C. Form H) including soybeans in the definition of eligible grain.

(2) Farm storage shall consist of farm bins and granaries which are of such substantial and firm construction as to afford safe storage of the soybeans and permit effective fumigation for the destruction of insects, and afford protection against rodents, other animals, thieves, and weather, as determined by State and county agricultural conservation committees.

(d) *Lending agency.* Any bank, cooperative marketing association, or other corporation, partnership, or person, which has a Contract to Purchase with Commodity Credit Corporation.

(e) *Eligible paper.* Eligible paper shall consist of notes of producers, secured by chattel mortgages or warehouse receipts representing soybeans in existence and undamaged. Such notes must be dated on or subsequent to October 1, 1941, and prior to January 31, 1942, and must be executed in accordance with these instructions, with State documentary revenue stamps affixed thereto, where required by law. A note executed by an administrator, executor, or trustee, will be acceptable only where valid in law.*

*§§ 226.1 to 226.17, inclusive, issued under authority contained in sec. 302 (a), 52 Stat. 43; 7 U.S.C. Sup., 1302.

CONTENTS

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.25 per month or $12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

CONTENTS—Continued

NOTICES

CONTENTS—Continued

§ 226.2 *Forms.* Loans will be made on the following forms only and no substitutions will be acceptable.

(a) Grain Producer's Note (1941 C.C.C. Grain Form A).

(b) Grain Chattel Mortgage (1941 C.C.C. Grain Form AA).

(c) Soybean Producer's Note and Loan Agreement (Converted 1941 C.C.C. Wheat Form B)

(d) Warehouse receipts complying with the provisions of section 226.9 hereof which are issued by approved warehouses.*

§ 226.3 *Areas in which loans will be made.* Loans shall be made on eligible soybeans when stored in

(a) Warehouses approved by Commodity Credit Corporation or

(b) In farm bins or granaries approved by the county agricultural conservation committee.*

§ 226.4 *Amount of loans.* Loan values on soybeans shall be based on the numerical grade, in accordance with the following schedule:

Soybeans stored on farms:

	Per bushel
No. 1 Soybeans	$1.05
No. 2 Soybeans	1.05
No. 3 Soybeans	1.03
No. 4 Soybeans	1.01

Soybeans stored in warehouses:

	Per bushel
No. 1 Soybeans	$0.98
No. 2 Soybeans	.98
No. 3 Soybeans	.96
No. 4 Soybeans	.94

*

§ 226.5 *Maturity and interest rate.* Notes secured by farm-stored soybeans and warehouse receipts shall mature on demand, but in any event not later than June 30, 1942. All loans will bear interest at the rate of 3 percent per annum. Notes evidencing loans must be dated on or before January 31, 1942.*

§ 226.6 *Determination of quantity of soybeans.* Loans shall be made at values expressed in cents per bushel, a bushel being determined to be 56 pounds when determined by weight or 1.25 cubic feet of soybeans testing 56 pounds per bushel when determined by measurement. In determining the quantity of soybeans in farm storage by measurement, fractional pounds of the bushel testweight for soybeans testing less than 56 pounds will be disregarded, and the quantity determined by measurement shall be adjusted by the following respective percentages:

	Percent
For soybeans testing 56 pounds or over	100
For soybeans testing 55 pounds or over, but less than 56 pounds	98
For soybeans testing 54 pounds or over, but less than 55 pounds	96
For soybeans testing 53 pounds or over, but less than 54 pounds	95
For soybeans testing 52 pounds or over, but less than 53 pounds	93
For soybeans testing 51 pounds or over, but less than 52 pounds	91
For soybeans testing 50 pounds or over, but less than 51 pounds	89

*

§ 226.7 *Farm storage.* Soybeans stored on the farm shall have been stored in the granary at least thirty (30) days prior to its inspection for measurement, sampling, and sealing. In accordance with regulations issued by the Secretary of Agriculture, the State and county agricultural conservation committees will inspect and approve storage facilities and will arrange for measuring, sampling, grading, and sealing the soybean collateral in approved structures. Chattel mortgages covering farm-stored soybeans must be executed and filed in accordance with the applicable State law. Producers should obtain information and assistance from the county agricultural conservation committees in regard to the execution and filing of such chattel

mortgages. Where the borrower is a tenant and the soybean collateral is stored on the farm, the expiration date of the lease must be given in section 1 (d) of the chattel mortgage. If the expiration date of the lease is prior to August 31, 1942, the landlord must execute the Consent for Storage, section 5 of the chattel mortgage. The consent agreement must also be signed by any other party or parties entitled to possession prior to August 31, 1942. Each producer must designate in section 1 (b) of the chattel mortgage a shipping point reasonably convenient for the delivery of the soybeans as determined by the county committee. Notes and mortgages which provide a shipping point other than the shipping point customarily used by producers in the locality in which the soybeans are stored will not be accepted. A separate note and chattel mortgage must be submitted for soybeans stored on each quarter section of land.*

§ 226.8 *Chattel mortgages.* All documents must be carefully examined as to compliance with State requirements.*

§ 226.9 *Public warehouses.* Commodity Credit Corporation will accept only negotiable, insured, warehouse receipts covering soybeans pledged as collateral to notes on the converted 1941 C.C.C. Wheat Form B issued by any approved warehouse. Warehousemen desiring approval should communicate with the regional office of Commodity Credit Corporation serving the area. A list of approved warehouses may be obtained from the State or county agricultural conservation office in the area. All soybeans pledged as security to a particular note must be stored in the same warehouse.*

§ 226.10 *Warehouse receipts.* Warehouse receipts must be dated on or prior to the date of the related note and must be properly assigned by an endorsement in blank, so as to vest title in the holder, or must be issued to bearer, and must be issued by approved warehouses. Unless the warehouse receipts are stamped or printed "insured" or "fully insured" there must be attached or included in the certificate of the warehouseman a statement that the soybeans are insured for not less than the market value, against the hazards of fire, lightning, inherent explosion, windstorm, cyclone and tornado. Commodity Credit Corporation will not accept warehouse receipts indicating any lien for charges prior to unloading in or delivery to the warehouse issuing such receipts. Lien for storage charges will be recognized by Commodity Credit Corporation only from August 1, 1941, or the date of the warehouse receipt, whichever is later. Such receipts must set out in their written or printed terms the gross weight or bushels, the class and grade, the percentage of sound soybeans, testweight, and all other facts and statements required to be stated in the written or printed terms of a negotiable warehouse receipt under the provisions of section 2 of the Uniform Warehouse Receipts Act, or must be accompanied by the certificate of the warehouseman identified to such warehouse receipt setting out such information, and shall be based on the delivery of the soybeans to an approved warehouse.*

§ 226.11 *Liens.* The soybean collateral must be free and clear of all liens except in favor of the lienholders listed in the space provided therefor in the chattel mortgage or note and loan agreement. The names of the holders of all existing liens on pledged or mortgaged soybeans, such as landlord, laborers, threshers, or mortgagees, must be listed in the space provided therefor in the mortgage or loan agreement. The waiver and consent to pledge or mortgage of the soybeans and the payment of the proceeds of the loan, and the proceeds of the sale of the soybeans solely to the producer, as contained in the mortgage or loan agreement, must be signed personally by all lienholders listed or by their duly authorized agents; or, if corporations, by an officer thereof customarily authorized to execute such instruments. (In lieu of signing the section of the chattel mortgage or loan agreement entitled "List of Lienholders and Their Waivers and Consent to Mortgage" lienholders may sign C.C.C. Form AB, which must completely identify the related note.) The producer may direct on the note that the proceeds of the loan be made payable to him and/or any other person or concern. Producers should read carefully all real estate or other mortgages previously given by them in order to determine whether the soybeans offered as collateral are covered thereby. Any fraudulent representation of fact made in the execution of the note and loan agreement or mortgage and related forms shall render the producer personally liable for the amount of the loan, plus interest and charges, and subject to the provisions of the United States Criminal Code.*

§ 226.12 *Insurance*—(a) *Soybeans stored on farms.* The producer must obtain primary insurance on soybeans stored on the farm for not less than the amount of the loan, plus accrued interest to maturity, which insurance shall not expire earlier than August 31, 1942. Such insurance must be evidenced by a certificate in a form approved by Commodity Credit Corporation and must be issued by a company or association licensed to do business in the State in which the soybeans are stored. The insurance coverage may be obtained through the customary channels and the form of certificate required shall be furnished by the agent writing same.

(b) *Soybeans stored in approved warehouses.* The warehouseman is required to provide insurance against the perils of fire, lightning, inherent explosion and windstorm, cyclone, and tornado, for the full market value of the soybeans.

(c) Commodity Credit Corporation has a blanket insurance policy which protects it and lending agencies against errors and omissions in the primary insurance coverage, and certain other risks not covered by the primary insurance. This insurance covers all loans and the cost of the insurance will be paid from the service fees collected from producers.*

§ 226.13 *County agricultural conservation committee.* Forms will be obtained from county agricultural conservation committees or from the office of Commodity Credit Corporation. The approval of each note should not bear a date prior to the date of the note or loan agreement, and must be signed in each instance by a member of the county agricultural conservation committee of the county in which the soybeans were produced, for warehouse-stored soybeans, and the county in which the soybeans are stored, for farm-stored soybeans. The State and county committees will determine or cause to be determined the quantity and grade of the soybean collateral and the amount of the loan. All loan documents will be completed and approved by the county committee, which will retain all documents except the producer's note and warehouse receipt. In order to reimburse itself for its expense in connection with the loan program the county agricultural conservation association will collect a service fee for each loan.*

§ 226.14 *Source of loans.* Loans may be obtained through banks and other lending agencies, as defined in section 226.1 hereof, or direct from the Commodity Credit Corporation. Notes made payable to the Corporation must be delivered to the office of the Corporation at Chicago, Illinois, on or before January 31, 1942, or postmarked on or before such date.*

§ 226.15 *Purchase of loans.* Commodity Credit Corporation will purchase, without recourse, eligible paper, as defined above, only from lending agencies which have executed and delivered to the regional office of Commodity Credit Corporation, Contract to Purchase, 1940 C.C.C. Form E, obtainable only from the Corporation.

Paper held by lending agencies must be tendered to the Commodity Credit Corporation office at least ten (10) days prior to maturity. The purchase price to be paid by Commodity Credit Corporation for notes accepted will be the outstanding face amount of such notes, plus accrued interest from the date of disbursement by the lending agency to the date of payment of the purchase price at the rate of 1½ percent per annum. Under the terms of the Contract to Purchase, lending agencies are required to report weekly on 1940 C.C.C. Form F all repayments or collections on producers' notes held by them and to remit with such report to the office of Commodity Credit Corporation, as shown below, an amount equivalent to 1½ percent per annum on the principal amount collected from the date of the note to the date of repayment.*

§ 226.16 *Offices of Commodity Credit Corporation.* The regional office of Commodity Credit Corporation, 208 South La Salle Street, Chicago, Illinois, will handle all soybean loans for the Corporation. All direct loans should be forwarded to such office for disbursement. Lending agencies desiring to submit soybean notes to Commodity Credit Corporation for purchase should forward the notes to the Chicago office.*

§ 226.17 *Release of collateral.* The producer may obtain the return of his note at any time prior to maturity, upon the payment of the principal amount due thereon, plus accrued interest and charges. Loan papers may be forwarded to a local bank for collection or the producer may ascertain the amount due and remit directly to the office of Commodity Credit Corporation. Partial releases of collateral will be made as follows:

(a) In the case of farm-stored soybeans, the producer must identify to the representative or lending agency the seal number of the bin containing the collateral to be released. Such release will be made upon payment of the amount loaned on the particular quantity of soybeans to be released, plus interest.

(b) In the case of elevator-stored soybeans, producers desiring to obtain partial release should notify the representative or lending agency, describing the soybeans to be released by warehouse receipt numbers. Each partial release must cover all the soybeans under one warehouse receipt. The warehouse receipt representing such soybeans will be released upon payment of the amount loaned, plus interest on such amount and any charges applicable thereto.*

Dated October 18, 1941.

[SEAL] J. B. HUTSON,
President.

[F. R. Doc. 41-9054; Filed, December 2, 1941; 11:39 a. m.]

TITLE 7—AGRICULTURE

CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

[020-1]

PART 920—MILK IN LA PORTE COUNTY, INDIANA, MARKETING AREA

Grover B. Hill, Acting Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), issued, effective September 1, 1941, Order No. 20, as amended,[1] regulating the handling of milk in the La Porte County, Indiana, marketing area.

Paul H. Appleby, Acting Secretary of Agriculture, tentatively approved, on July 23, 1941, a marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area.

There being reason to believe that amendments to said tentatively approved marketing agreement, as amended, and to said order, as amended, would tend to effectuate the declared policy of said act, notice was given, on the 4th day of September 1941, of a public hearing[2] which was held in La Porte, Indiana, on the 16th day of September 1941, on a proposal to amend said marketing agreement, as amended, and said order, as amended, at which time and place all interested parties were afforded an opportunity to be heard on the proposal to amend said marketing agreement, as amended, and said order, as amended.

After such hearing, handlers of more than fifty percent of the volume of milk covered by such order, as amended, which is marketed within the La Porte County, Indiana, marketing area, refused or failed to sign a tentatively approved marketing agreement, as amended, regulating the handling of milk in such marketing area, in the same manner as said order, as hereby amended.

The provisions of section 8c (9) of said act have been complied with.

It is hereby found (§ 920.0) upon the evidence introduced at the above-mentioned hearing, said findings being in addition to the findings made upon the evidence introduced at the original hearing on said order and at hearings on amendments to said order, and in addition to the other findings made prior to or at the time of the original issuance of said order and of amendments to said order (which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth):

(a) That the handling of milk which is produced outside of the State of Indiana and sold in the marketing area is in the current of interstate commerce, and that the handling of milk produced within the State of Indiana which is intermingled with the milk produced outside of the State of Indiana burdens, obstructs, and affects interstate commerce;

(b) That the prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8e of said act (50 Stat. 246; 7 U.S.C. 602, 608e) are not reasonable in view of the available supplies of feeds, the prices of feeds, and other economic conditions which affect the supply of and demand for such milk, and that the minimum prices set forth in this amendment to said order, as amended, are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) That the order regulates the handling of milk in the same manner as the tentatively approved marketing agreement, as amended, upon which hearings have been held; and

(d) That the issuance of this amendment No. 1 to the order, as amended, and all of the terms and conditions of such order, as so amended, will tend to effectuate the declared policy of the act.

It is hereby ordered that the order, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area, shall be, and it is hereby amended, as follows:

1. Delete § 920.4 and substitute therefor the following:

§ 920.4 *Minimum prices*—(a) *Class prices.* Each handler shall pay producers, at the time and in the manner set forth in § 920.8, for the 3.8 percent butterfat content equivalent of milk received at the handler's plant, not less than the following prices:

(1) *Class I milk.* The price per hundredweight for Class I milk shall be the price for Class III milk determined by the market administrator pursuant to subparagraph (3) of this paragraph, plus 50 cents: *Provided,* That with respect to Class I milk disposed of by such handler (i) to persons or families receiving relief from recognized relief agencies, or (ii) under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be such Class I price less 30 cents.

(2) *Class II milk.* The price per hundredweight for Class II milk shall be the price for Class III milk determined by the market administrator pursuant to subparagraph (3) of this paragraph, plus 20 cents.

(3) *Class III milk.* The price per hundredweight for Class III milk shall be the price resulting from the following computation by the market administrator: determine the arithmetic average of the basic, or field, prices per hundredweight ascertained to have been paid for milk of 3.8 percent butterfat content received during the delivery period at the following plants:

Concern	*Location of plant*
Goshen Milk Condensing Co.	Goshen, Ind.
Litchfield Creamery Co.	Warsaw, Ind.
Gordon Baking Company	Nappanee, Ind.
Niles Creamery Company	Niles, Mich.

Provided, That if any of such plants fails to report to the market administrator the basic, or field, price paid for milk received during the delivery period, the price per hundredweight for Class III milk shall be the price resulting from the following computation by the market administrator: determine the arithmetic average of the basic, or field, prices, as reported to the United States Department of Agriculture, paid during the delivery period to farmers at the following places or evaporated milk plants where milk is received for evaporating purposes:

[1] 6 F.R. 4432.

[2] 6 F.R. 4620.

Location of evaporated milk plants and places

Mt. Pleasant, Mich.	Berlin, Wis.
Sparta, Mich.	Richland Center, Wis.
Hudson, Mich.	Oconomowoc, Wis.
Wayland, Mich.	Jefferson, Wis.
Coopersville, Mich.	New Glarus, Wis.
Greenville, Wis.	Belleville, Wis.
Black Creek, Wis.	New London, Wis.
Orfordville, Wis.	Manitowoc, Wis.
Chilton, Wis.	West Bend, Wis.

(4) *Class IV milk.* The price per hundredweight resulting from the following computation by the market administrator: multiply by 3.8 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

2. Delete § 920.8 (a) (1) and substitute therefor the following:

§ 920.8 *Payments for milk*—(a) *Time and method of payment.* (1) On or before the 15th day after the end of each delivery period, other than the delivery periods of June, July, August, and September, each handler shall make payment, subject to the butterfat differential set forth in paragraph (c) of this section, to producers from whom such milk was received, as follows:

* * * * *

3. Delete § 920.8 (a) (2) and substitute therefor the following:

(2) On or before the 15th day after the end of each June, July, August, and September delivery period, each handler shall make payment, subject to the butterfat differential set forth in paragraph (c) of this section, to producers from whom such milk was received, as follows:

* * * * *

(48 Stat. 31, 670, 675 (1933); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. and Sup., 601 et seq.)

Issued at Washington, D. C., this 2d day of December 1941 to become effective on and after the 5th day of December 1941. Witness my hand and the official seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-9075; Filed, December 2, 1941; 11:39 a. m.]

PART 932—MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA

Claude R. Wickard, Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), issued, effective August 8, 1941, Order No. 32, as amended,[1] regulating the handling of milk in the Fort Wayne, Indiana, marketing area.

Paul H. Appleby, Acting Secretary of Agriculture, tentatively approved, on July 14, 1941, a marketing agreement, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area.

There being reason to believe that amendments to said tentatively approved marketing agreement, as amended, and to said order, as amended, would tend to effectuate the declared policy of said act, notice was given, on August 26, 1941, of a public hearing[2] which was held in Fort Wayne, Indiana, on September 15, 1941, on a proposal to amend said marketing agreement, as amended, and said order, as amended, at which time and place all interested parties were afforded an opportunity to be heard on the proposal to amend said marketing agreement, as amended, and said order, as amended.

After such hearing, handlers of more than fifty (50) percent of the volume of milk covered by said order, as amended, which is marketed within the Fort Wayne, Indiana, marketing area, refused or failed to sign a tentatively approved marketing agreement, as amended, regulating the handling of milk in such marketing area, in the same manner as said order, as hereby amended.

The provisions of section 8c (9) of said act have been complied with.

It is hereby found (§ 932.0), upon the evidence introduced at the above-mentioned hearing, said findings being in addition to the findings made upon the evidence introduced at the original hearings on said order and at hearings on amendments to said order, and in addition to the other findings made prior to or at the time of the original issuance of said order and of amendments to said order (which findings are hereby ratified and affirmed, save only as such findings are in conflict with the findings hereinafter set forth):

(a) That the prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of said act (50 Stat. 246; 7 U.S.C. 602, 608e) are not reasonable in view of the available supplies of feeds, the prices of feeds, and other economic conditions which affect the supply of and demand for such milk, and that the minimum prices set forth in this amendment to said order, as amended, are such prices as will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(b) That the order regulates the handling of milk in the same manner as the tentatively approved marketing agreement, as amended, upon which hearings have been held; and

(c) That the issuance of this amendment No. 1 to the order, as amended, and all of the terms and conditions of such order, as so amended, will tend to effectuate the declared policy of the act.

It is hereby ordered that the order, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area shall be and it is hereby amended as follows:

1. Delete § 932.4 and substitute therefor the following:

§ 932.4 *Minimum prices*—(a) *Class prices.* Each handler shall pay producers, in the manner set forth in § 932.8, for the 4 percent butterfat content equivalent of milk received at such handler's plant, not less than the following prices:

(1) *Class I milk.* The price per hundredweight for Class I milk shall be the price for Class III milk, determined by the market administrator pursuant to subparagraph (3) of this paragraph, plus 65 cents: *Provided,* That with respect to Class I milk disposed of by such handler under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be such Class I price less 46 cents.

(2) *Class II milk.* The price per hundredweight for Class II milk shall be the price for Class III milk determined by the market administrator pursuant to subparagraph (3) of this paragraph, plus 30 cents.

(3) *Class III milk.* Except as set forth in subparagraph (4) of this paragraph, the price per hundredweight for Class III milk shall be the price resulting from the following computation by the market administrator: determine the average of the prices per hundredweight ascertained to have been paid for milk of 4 percent butterfat content received during the delivery period at the following plants, and subtract 3 cents:

Concern	*Location of plant*
Defiance Milk Products Co.	Defiance, Ohio.
Van Camp Milk Co.	Garrett, Ind.
Van Camp Milk Co.	Angola, Ind.
Kraft-Phenix Cheese Corporation.	Kendallville, Ind.

Provided, That if the price so determined is less than the price per hundredweight computed by the market administrator in accordance with the following formula, such formula price shall be the price for Class III milk for the delivery period: multiply by 4 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 30 percent thereof.

(4) In the case of Class III milk disposed of by such handler as butter, but not to exceed 10 percent of the 4 percent butterfat content equivalent of such handler's Class I and Class II milk, the

[1] 6 F.R. 3936.

[2] 6 F.R. 4545.

price per hundredweight shall be that resulting from the following computation by the market administrator: multiply by 4 the average butter price computed pursuant to the proviso in subparagraph (3) of this paragraph, and add 30 percent thereof.

2. Delete § 932.9 and substitute therefor the following:

§ 932.9 *Marketing services*—(a) *Marketing service deductions.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 932.8 (b) (1), shall make a deduction of 3 cents per hundredweight of milk, or such lesser deduction as the market administrator shall determine to be sufficient, subject to review by the Secretary, with respect to the following:

(1) All milk received from producers at a plant not operated by a cooperative association qualified under paragraph (b) of this section; and

(2) All milk received at a plant operated by a cooperative association qualified under paragraph (b) of this section from producers who are not members of such cooperative association.

Such deductions shall be paid by the handler to the market administrator on or before the 15th day after the end of each delivery period. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and in providing for market information to such producers. The market administrator may contract with any qualified association of producers to act as his agent to furnish any or all of such services to such producers.

(b) *Marketing service deduction with respect to members of, or producers marketing through, a cooperative association.* In the case of each producer (1) who is a member of, or who has given written authorization for the rendering of marketing services and the taking of deductions therefor to, a cooperative association qualified under the provisions of the act of Congress of February 18, 1922, known as the Capper-Volstead Act, (2) whose milk is received at a plant not operated by such association, and (3) for whom the Secretary determines that such association is performing the services described in paragraph (a) of this section, each handler shall deduct, in lieu of the deductions specified under paragraph (a) of this section, from the payments made pursuant to § 932.8 (b) (1), the amount per hundredweight of milk authorized by such producer and shall pay over, on or before the 15th day after the end of such delivery period, such deduction to the cooperative association entitled to receive it under this paragraph. (48 Stat. 31, 670, 675 (1933); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. and Sup., 601 et seq.)

Issued at Washington, D. C., this 2d day of December 1941, to become effective on and after the 5th day of December 1941. Witness my hand and the official seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-9077; Filed, December 2, 1941; 11:41 a. m.]

[O-47]

PART 947—MILK IN FALL RIVER, MASSACHUSETTS, MARKETING AREA

Sec.
947.0 Findings.
947.1 Definitions.
947.2 Market administrator.
947.3 Classification of milk.
947.4 Minimum prices.
947.5 Reports of handlers.
947.6 Application of provisions.
947.7 Determination of uniform prices to producers.
947.8 Base ratings.
947.9 Payments for milk.
947.10 Marketing services.
947.11 Expenses of administration.
947.12 Effective time, suspension, and termination of order.

H. A. Wallace, Secretary of Agriculture of the United States of America, issued, effective June 1, 1940, Order No. 47,[1] regulating the handling of milk in the Fall River, Massachusetts, marketing area.

There being reason to believe that the issuance of an amendment to said order, would tend to effectuate the declared policy of the act, notice was given of a hearing which was held on October 28, 1940, reopened after due notice on May 19, 1941, and again reopened after due notice on September 3, 1941,[2] all sessions of the hearing being held in Westport, Massachusetts, at which times and place all interested parties were afforded an opportunity to be heard upon certain proposals to amend the order.

The requirements of section 8c (9) of said act have been complied with.

§ 947.0 *Findings.* It is found upon the evidence introduced at the last above-mentioned public hearings, such findings being in addition to the findings made upon the evidence introduced at the hearings on the order, and being in addition to the other findings made prior to or at the time of the orginal issuance of the order (which findings are hereby ratified and affirmed save only as such findings are in conflict with the findings hereinafter set forth):

(a) That prices calculated to give milk produced for sale in the marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to Secs. 2 and 8c, 50 Stat. 246; 7 U.S.C. 602, 603c, are not reasonable in view of the available supplies of feeds, the price of feeds, and other economic conditions which affect the supply of and demand for such milk and that the minimum prices set forth in this amendment to said order are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and that the fixing of such prices does not have for its purpose the maintenance of prices to producers above the levels which are declared in the act to be the policy of Congress to establish;

(b) That the order, as amended, regulates the handling of milk in the same manner as a marketing agreement, as amended, upon which a hearing has been held; and

(c) That the issuance of the order, as amended, and all of its terms and conditions, tends to effectuate the declared policy of the act.*

*§§ 947.0 to 947.12, inclusive, issued under the authority contained in 48 Stat. 31, 670, 675 (1933); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 7 U.S.C. and Sup., 601 et seq.

It is hereby ordered, That such handling of milk in the Fall River, Massachusetts, marketing area as is in the current of interstate commerce or as directly burdens, obstructs, or affects interstate commerce shall, from the effective date hereof, be in compliance with the following terms and conditions:

§ 947.1 *Definitions*—(a) *Terms.* As used herein, the following terms shall have the following meanings:

(1) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

(2) The term "Secretary" means the Secretary of Agriculture of the United States.

(3) The term "Fall River, Massachusetts, marketing area," hereinafter called the "marketing area," means (a) the city of Fall River and the town of Somerset, both in the Commonwealth of Massachusetts, and (b) the town of Tiverton in the State of Rhode Island.

(4) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(5) The term "producer" means any person who produces milk which is delivered to a receiving plant from which milk is shipped to, or sold in, the marketing area during any delivery period.

(6) The term "cooperative association" means any cooperative association of producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

(7) The term "handler" means any person irrespective of whether such person is also a producer or a cooperative association who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk or cream in the marketing area; and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products. This defini-

[1] 5 F.R. 2079.
[2] 6 F.R. 4454.

tion shall be deemed to include a cooperative association with respect to the milk delivered by a handler to another handler or a nonhandler for the account of such association and the milk of any producer which it causes to be delivered to the plant of a handler or causes to be delivered to a plant from which no milk is disposed of in the marketing area, for the account of such association of producers, and for which such association of producers collects payment.

(8) The term "producer-handler" means a producer who is also a handler and receives no milk from other producers: *Provided*, That the maintenance, care, and management of the dairy animals and other resources necessary to produce his milk shall be the personal enterprise of and at the personal risk of such producer, and the processing, packaging, and distribution of the milk shall be the personal enterprise of and shall be at the personal risk of such producer in his capacity as a handler.

(9) The term "market administrator" means the person designated pursuant to § 947.2 as the agency for the administration hereof.

(10) The term "delivery period" means the current marketing period from the effective date hereof to and including the last day of that month. Subsequent to that month "delivery period" means the current marketing period from the first to and including the last day of each month.

(11) The term "hundredweight" means one hundred pounds of milk or its volume equivalent, considering 85 pounds of milk and 86 pounds of skimmed milk per 40-quart can, and 2.15 pounds of milk per quart.

(12) The term "receiving plant" means any milk plant currently used for receiving, weighing or measuring, sampling, and cooling milk received there directly from producers' farms, and for washing and sterilizing the milk cans in which milk is received, and at which are currently maintained weigh sheets or other records of producers' deliveries.*

§ 947.2 *Market administrator*—(a) *Designation.* The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) *Powers.* The market administrator shall have power to:

(1) Administer the terms and provisions hereof.

(2) Receive, investigate, and report to the Secretary complaints of violations of the terms and provisions hereof.

(3) Recommend to the Secretary amendments hereto.

(c) *Duties.* The market administrator, in addition to the duties hereinafter described, shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay, out of the funds provided by § 947.11, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein, and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Unless otherwise directed by the Secretary, publicly disclose, within 30 days after such nonperformance becomes known to the market administrator, the name of any person who, within 6 days after the date on which he is required to perform such acts has not (a) made reports pursuant to § 947.5 or (b) made payments pursuant to § 947.9; and shall at any time thereafter so disclose any such name if authorized by the Secretary so to do.

(5) Promptly verify the information contained in the reports submitted by the handlers.*

§ 947.3 *Classification of milk*—(a) *Sales and use classification.* Milk purchased or received by each handler shall be classified subject to the provisions of paragraphs (b), (c), and (d) of this section, as follows:

(1) All milk the utilization of which is not established as Class II milk shall be Class I milk.

(2) Class II milk shall be all milk the utilization of which is established (i) as being sold, distributed, or disposed of other than as or in milk which contains one-half of 1 percent or more, but less than 16 percent of butterfat, and other than as chocolate or flavored whole or skim milk; and, (ii) as actual plant shrinkage applicable to Class II milk, to be determined by prorating the total plant shrinkage between Class I and Class II milk in proportion to the volume of milk otherwise classified in each class: *Provided*, That the quantity of shrinkage which is classified as Class II milk shall not exceed 2 percent of the milk classified pursuant to (i) of this subparagraph.

(b) *Interhandler and nonhandler sales.* Whole milk or skim milk disposed of by a handler to another handler or to a person who distributes milk or manufactures milk products shall be classified, subject to verification by the market administrator, as Class I milk: *Provided*, That if such milk, except for milk disposed of by a handler to a producer-handler, is reported as having been utilized as Class II milk by the person who received it or by the disposing handler, such milk shall be classified accordingly.

(c) *Disposition of milk to other markets.* (1) Milk received by a handler at one of his plants not subject to the provisions hereof from persons reported by him as under contract to have their milk received and paid for as part of his supply for the marketing area shall be considered (a) as Class II milk if received at a plant of that handler, the handling of milk in which plant is subject to any Federal order regulating the handling of milk in either the Greater Boston, Massachusetts, or the Providence, Rhode Island, marketing areas; except that for any delivery period during which the volume of such milk received at a plant specified herein exceeds the total volume which was actually disposed of from that plant as Class II milk, the quantity of such transferred milk in excess of the quantity of milk disposed of as Class II milk shall be considered as Class I milk, and (b) as Class I milk if received at a plant of that handler other than plants specified in (a) of this subparagraph.

(2) Milk or skimmed milk disposed of by a handler to any plant not subject to the provisions hereof shall be classified (a) as Class II milk if received at a plant, the handling of milk in which plant is subject to any Federal order regulating the handling of milk in either the Greater Boston, Massachusetts, marketing area, or the Providence, Rhode Island, marketing area, and (b) as Class I milk, not to exceed the total quantity of Class I milk or skimmed milk at such plant, if received at a plant other than plants specified in (a) of this subparagraph.

(d) *Computation of milk in each class in plants serving more than one market.* Of the milk received at plants, the handling of which is subject to § 947.6 (c), the quantity of a handler's milk in each class received from producers for the Fall River marketing area shall be computed, subject to § 947.6, as follows:

(1) Determine the quantity of milk received from producers and/or associations of producers listed for the marketing area.

(2) Determine the quantity of Class I milk from producers and/or associations of producers listed for the marketing area as follows:

(i) Determine the quantity of such milk that is disposed of as Class I milk in each of the other marketing areas for which milk is received pursuant to § 947.6 (c) (including all milk disposed of from delivery routes that are partly in such marketing area, unless such routes are partly in the Fall River marketing area), or the total quantity of milk received from producers and/or associations of producers maintained pursuant to § 947.6 (c) for such marketing area, whichever is smaller.

(ii) From the handler's Class I milk received from producers and/or associations of producers that is disposed of from such plant subtract the sum of the determinations pursuant to (i) of this subparagraph.

(3) Determine the quantity of Class II milk from producers and/or associations of producers listed for the marketing

area as follows: subtract from the quantity of milk determined pursuant to (i) of this paragraph the quantity of milk determined pursuant to (ii) of subparagraph (2) of this paragraph.*

§ 947.4 *Minimum prices*—(a) *Class I price.* Each handler shall pay producers or associations of producers for their milk, in the manner set forth in § 947.9, not less than $3.88 per hundredweight for milk containing 3.7 percent butterfat, for delivery periods prior to April 1, 1942, and thereafter $3.42 per hundredweight except that for milk purchased by the city of Fall River for relief clients and charity hospitals and for milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be 53 cents per hundredweight less than the respective prices set forth in this paragraph.

(b) *Class II price.* Each handler shall pay producers or associations of producers for their milk in the manner set forth in § 947.9, not less than that price per hundredweight, for milk containing 3.7 percent butterfat, calculated for each delivery period by the market administrator, as follows: divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream in the Boston market, as reported by the United States Department of Agriculture for the delivery period during which such milk is delivered, or the last such price reported for a delivery period if no such price is reported for the delivery period during which such milk is delivered, multiply the result by 3.7 and subtract 15 cents: *Provided*, That any plus amount for skim value shall be added which results from the average of the two following computations: (a) compute the average of all hot-roller process dry skim milk quotations, "other brands, human consumption, barrels, carlots," and for "other brands, animal feed, carlots, bags, or barrels" (using midpoint of any range as one quotation), published during such delivery period in *The Producers' Price-Current*, subtract 4¼ cents, multiply by 7; and (b) compute the average of all quotations (using midpoint of any range as one quotation), published during the delivery period in the *Oil, Paint, and Drug Reporter* for domestic 20–30 mesh casein in bags in carlots at New York, subtract 6.6 cents and multiply by 2.2: *Provided further*, That if either computation results in a minus amount, the other shall be used in lieu of the average.

(c) *Butterfat differential.* If any producer has delivered to any handler during any delivery period milk having an average butterfat content other than 3.7 percent, such handler shall, in making the payments to such producer prescribed by paragraph (a) of § 947.9, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: divide by 33.48 the weighted average price per 40-quart can of 40 percent bottling quality cream in the Boston market as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the delivery period during which such milk is delivered or the last such price reported for a delivery period if no such price is reported for the period between the 16th day of the preceding month and 15th day inclusive of the delivery period during which such milk is delivered, subtract 1½ cents and divide the result by 10.

(d) *Sales outside of the marketing area.* (1) Each handler shall pay producers or associations of producers for Class I milk disposed of outside of the marketing area, except as provided in subparagraph (2) of this paragraph, as follows:

(i) For milk disposed of in milk marketing areas numbers 16A and 16B as defined by official orders of the Milk Control Board of the Commonwealth of Massachusetts in effect on May 1, 1941, the price applicable to such areas pursuant to the terms of the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area (Order No. 4) issued by the Secretary on February 7, 1936, effective February 9, 1936, as amended, or of any order superseding or amending such order.

(ii) For milk disposed of in areas outside of the marketing area other than those specified pursuant to (i) of this subparagraph the applicable prices for Class I milk shall be those set forth in paragraph (a) of this section: *Provided, however*, That if the market administrator ascertains that the prevailing price for milk of equivalent use being paid by distributors of milk in the area in which the milk is sold is lower, than the price ascertained to be the prevailing price shall be paid.

(2) In the case of a handler who disposes of milk in more than one marketing area from the same plant and maintains a separate list of producers and/or associations of producers for each area pursuant to § 947.6 (c), the Class I and Class II prices and the butterfat differential pursuant to the terms hereof to be paid producers for milk, other than that computed pursuant to § 947.3 (d) (2) and § 947.3 (d) (3), shall be the prices that the handler reports to the administrator that he will pay for such milk.*

§ 947.5 *Reports of handlers*—(a) *Periodic reports.* On or before the 7th day after the end of each delivery period each handler shall, with respect to milk and cream which, during such delivery period, was received from producers, received from handlers, received from such handlers' own production, or received from other sources, report to the market administrator in the form and detail prescribed by the market administrator as follows:

(1) The receipts at each plant from producers who are not handlers;

(2) The receipts at each plant from any other handler, including any handler who is also a producer;

(3) The receipts from such handler's own production;

(4) The receipts pursuant to § 947.6 (d);

(5) The receipts from all other sources; and

(6) The respective quantities of milk which were sold, distributed, or disposed of, including sales or deliveries to other handlers, for the several purposes and classifications as set forth in § 947.3.

(b) *Reports as to producers.* Each handler shall report to the market administrator:

(1) Within 10 days after the market administrator's request with respect to any producer for whom such information is not in the files of the market administrator, and with respect to a period or periods of time designated by the market administrator, (a) the name, post office address, and farm location, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days on which deliveries were made;

(2) At such time after the 18th day after the end of each delivery period as the market administrator may require, each handler shall within 10 days submit to the market administrator his producer records for such delivery period, which shall show for each producer: (a) the total delivery of milk with the average butterfat test thereof, (b) the net amount of the payment to each producer and association of producers, made pursuant to § 947.9, and (c) the deductions and charges made by the handler;

(3) On or before the 18th day after the end of the first delivery period following the effective date hereof, each handler shall report to the market administrator a schedule of the transportation rates which were charged and paid for the transportation of milk from the farm of each producer to such handler's receiving plant and such information with respect to distances involved as the market administrator may require;

(4) On or before the 18th day after any changes are made in the schedule filed in accordance with subparagraph (3) of this paragraph, a copy of the revised schedule with the effective dates of such changes as may appear in the revised schedule; and

(5) On or before the 7th day after the end of each delivery period each handler shall report to the market administrator the names of any persons whose milk he is reporting pursuant to § 947.3 (c) and §947.6 (d) and include a certification that these persons have contracts as specified therein.

(c) *Verification of reports.* Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in reports submitted by such handler pursuant to this section and (2) those facilities necessary for the weighing, measuring, and sampling of milk and the testing of the butterfat content of milk or any product therefrom, and for determining the utilization of milk made by the handlers.*

§ 947.6 *Application of provisions*—(a) *Milk received from producers by handlers who are also producers.* In the case of a handler who is also a producer and who receives milk from producers, the market administrator shall, before making computations set forth in § 947.7, (a) exclude the milk received by him in each class from other handlers, and (b) exclude pro rata from his remaining Class I and Class II milk the quantity of milk received from his own farm production; except that the quantity thus excluded from the handler's Class II milk shall not exceed 10 percent of the total quantity of milk received from his own production.

(b) *Milk received from producer-handlers.* Milk received by a handler from a producer-handler shall be considered as being received from a producer.

(c) *Milk handled in plants serving more than one market.* (1) Except as provided in subparagraph (2) of this paragraph, in the case of a handler who disposes of milk in the marketing area from delivery routes from which no milk is distributed in the Fall River marketing area, and who maintains and submits to the market administrator a separate list of producers and/or associations of producers for each marketing area the provisions hereof shall apply subject to the exceptions provided in § 947.3 (d), § 947.4 (d), § 947.7 (a) and (b), and § 947.9 (g).

(2) This paragraph shall not apply to the handling of milk regulated pursuant to paragraph (d) of this section.

(d) *Milk for other markets.* (1) Except as provided in subparagraph (2) of this paragraph, milk received from producers who are reported by a handler as under contract to have their milk paid for as part of that handler's supply for a market other than the marketing area and milk received from the handler's plant at which all or part of his supply for such other market is received shall be reported under a separate category and the provisions of § 947.9 and § 947.10 shall not apply, except that such handler shall make payments as specified in § 947.9 (i).

(2) This paragraph shall not apply to the handling of milk of producers listed and maintained for marketing areas other than the Fall River marketing area pursuant to paragraph (c) of this section.

(e) *Handlers not distributing milk in the marketing area.* A handler who does not distribute or dispose of milk directly in the marketing area shall, with respect to the quantity of milk disposed of to other handlers, make payments as provided in § 947.9 (h) and § 947.11.

(f) *Milk handled by producer-handlers.* (1) The provisions hereof, except as set forth in § 947.5, shall not apply to the handling of milk of handlers who are also producer-handlers pursuant to § 947.1 (a) (6), as verified by the market administrator in the manner provided in subparagraph (2) of this paragraph.

(2) Handlers shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence of their qualifications as producer-handlers pursuant to § 947.1 (a) (6), as of the effective date of the provisions hereof, and they shall furnish evidence of subsequent changes made in the manner of producing or distributing their milk that affects their qualification as producer-handlers; such verification by the market administrator shall be made within 15 days of the date of receipt of the evidence, and shall be effective retroactively to the effective date of the provisions hereof in cases verified within 45 days of such effective date and shall be effective retroactively to the first day of the delivery period during which verification is made in subsequent cases.

(g) *Exemptions.* The provisions hereof shall not apply, except as particularly specified, in the following cases:

(1) Except as provided in § 947.3 and § 947.5, to the handling of milk received at any handler's receiving plant which is subject to the provisions of the order regulating the handling of milk in the Greater Boston, Massachusetts, marketing area (Order No. 4), issued by the Secretary on February 7, 1936, effective February 9, 1936, as amended, or of any order superseding or amending such order unless such handler disposes of less than 10 percent of his total receipts as Class I milk in the Greater Boston marketing area.

(2) Except as provided in § 947.3 and § 947.5, to the handling of milk received at any handler's receiving plant from which a quantity of milk is disposed of in the marketing area as defined by the order regulating the handling of milk in the Providence, Rhode Island, marketing area, in excess of the quantity of milk disposed of in the marketing area (Fall River).

(3) Except as provided in paragraphs (d) and (e) of this section and § 947.5, to the handling of milk received at a handler's plant from which no milk is disposed of or distributed directly in the marketing area.*

§ 947.7 *Determination of uniform prices to producers*—(a) *Computation of value of milk in each class.* (1) For each delivery period the market administrator shall, except as provided in subparagraph (2) of this paragraph, compute, subject to provisions of § 947.6, the value of milk sold, used, distributed, and/or disposed of by each handler, which was not received from other handlers or pursuant to § 947.6 (d), by (a) multiplying the quantity of such milk in each class by the prices applicable pursuant to paragraphs (a), (b), and (d) of § 947.4, (b) adding together the resulting value in each class, and (c) subtracting any amounts required to be paid under the order regulating the handling of milk in the Greater Boston marketing area, with respect to the handling of any milk pursuant to § 947.6 (g) (1).

(2) In the case of a handler who disposes of milk in more than one marketing area, subject to § 947.6 (c), compute, subject to the provisions of § 947.6, the value of milk disposed of which was received from producers and/or associations of producers listed for the marketing area, by (a) multiplying the quantities of milk computed pursuant to § 947.3 (d) (2) and (3) by the prices applicable pursuant to paragraphs (a), (b), and (d) of § 947.4, and (b) adding together the resulting value of each class.

(3) For the purpose of this section: (i) milk received pursuant to § 947.6 (d) from producers who are reported as having contracts applying to the Greater Boston, Massachusetts, marketing area, or in bulk from plants at which all or part of the handler's Boston supply is received, shall be considered to (a) have first been the handler's Class I milk disposed of in milk marketing areas Nos. 16A and 16B as defined by official orders of the Milk Control Board of the Commonwealth of Massachusetts, in effect on May 1, 1941, and (b) then the handler's Class I milk disposed of in the marketing area;

(ii) Milk received pursuant to § 947.6 (d), completely processed and packaged for distribution to consumers, from a plant which is subject to the order regulating the handling of milk in the Greater Boston marketing area, shall be considered to have been part of the handler's Class I milk disposed of in the marketing area; and

(iii) Milk received pursuant to § 947.6 (d) other than that specified in (i) and (ii) of this subparagraph shall be considered to (a) have been first the handler's Class II milk, (b) then any of the handler's Class I milk disposed of in the milk marketing areas Nos. 16A and 16B, as defined by official orders of the Milk Control Board of the Commonwealth of Massachusetts, in effect on May 1, 1941, that remains after the allocation pursuant to subdivision (a) of (i) of this subparagraph, and (c) then the handler's Class I milk disposed of in the marketing area that remains after the allocations pursuant to (a) (3) (i) (b) and (a) (3) (ii) of this section.

(b) *Computation and announcement of uniform prices.* The market administrator shall compute and announce the uniform price per hundredweight of milk received during each delivery period in the following manner:

(1) For each delivery period combine into one total the respective values of

milk, pursuant to paragraph (a) of this section, for each handler who made the reports required by § 947.5 (a), for milk received during such delivery period.

(2) Add the total amount of the payments required of handlers pursuant to § 947.9 (h) and (i).

(3) Subtract the amount to be paid to producers pursuant to § 947.9 (a) (2) (ii) and (iii).

(4) Add the cash balance, if any, in his hands from payments made by handlers, during the delivery period next preceding but one, to meet the obligations arising out § 947.9 (d).

(5) Divide by the total quantity of milk which is not in excess of the delivered bases of producers and which is included in these computations.

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight for the purpose of retaining a cash balance in connection with the payments set forth in § 947.9 (d).

(7) On or before the 11th day after the end of such delivery period, mail to all handlers and publicly announce: (a) such of these computations as do not disclose information confidential pursuant to the act, (b) the blended price per hundredweight which is the result of these computations, (c) the Class II price, the butterfat differential, and (d) the name of the handler, the Class I price, the Class II price, and the blended prices of any milk paid for pursuant to § 947.9 (g).*

§ 947.8 *Base ratings*—(a) *Determination of base.* (1) For each delivery period subsequent to December 31, 1940, the base of each producer shall be a quantity of milk calculated in the following manner: multiply the applicable figure computed pursuant to subparagraph (2), (3), or (4) of this paragraph, by the number of days on which milk was received from such producer during such delivery period.

(2) Effective January 1, 1941, the daily base of each producer shall be determined by the market administrator from reports filed by handlers pursuant to § 947.5 (b) (1) or from the best information available, in the following manner; except that for producers who on November 30, 1940, are being paid for their deliveries of milk pursuant to § 947.9 (a) (1) (ii), average daily bases shall be determined pursuant to subparagraph (4) of this paragraph:

(i) Determine for each producer the average daily deliveries of milk to a handler as a producer, or a new producer, for the period from the effective date hereof, or the date on which such deliveries begin, to and including November 30, 1940;

(ii) Add together in one sum all the daily average amounts computed according to subdivision (i) of this subparagraph;

(iii) Determine from reports filed by handlers pursuant to § 947.5 (a) (6) the average daily utilization of Class I milk of handlers except that of the receipts of their own production for handlers who are also producers, for the period from the effective date hereof, to and including November 30, 1940, and add to such daily average an amount equal to 15 percent thereof;

(iv) Divide the amount determined pursuant to subdivision (iii) of this subparagraph by the sum determined pursuant to subdivision (ii) of this subparagraph; and

(v) Multiply the daily average amount for each producer determined in subdivision (i) of this subparagraph by the percentage figure computed pursuant to subdivision (iv) of this subparagraph. This result shall be known as the producer's daily base.

(3) In case reports show total deliveries of milk of producers with daily bases for any two consecutive delivery periods to be less than 110 percent of Class I milk of handlers who have reported pursuant to § 947.5 (a) (6) during such delivery periods, the market administrator shall add, pro rata, to each producer's daily base an amount determined as follows:

(i) Determine the total utilization of Class I milk of handlers who have reported pursuant to § 947.5 (a) (6) for such delivery periods and add thereto an amount not to exceed 15 percent thereof;

(ii) Determine from reports received pursuant to § 947.5 (b) (1) the total deliveries for such delivery periods of producers with daily bases;

(iii) Subtract the sum determined pursuant to subdivision (ii) of this subparagraph from the amount determined pursuant to subdivision (i) of this subparagraph; and

(iv) Divide the amount determined pursuant to subdivision (iii) of this subparagraph by the total number of days of the delivery periods involved.

(4) In the event of allotment of a daily base to a producer who did not regularly sell milk for a period of 30 days prior to the effective date hereof to a handler or to persons within the marketing area, or to a producer who for other reasons does not have a base, the market administrator shall determine the daily average deliveries of milk by such producer for the first 2 full calendar months immediately following the first regular delivery of such producer, or, in the case of a producer previously holding a base, the first 2 full calendar months immediately following the first regular delivery following the date of termination of such base. Such daily average deliveries of milk shall be multiplied by the percentage that total reported base deliveries were to reported total deliveries of milk to the market by all daily base-holding producers during such 2 calendar months.

(b) *Base rules.* (1) In the event a producer delivers an average quantity of milk less than 85 percent of his daily base for each of the 2 consecutive calendar months, July and August of any year, such producer shall be reallotted a base equal to his daily average deliveries of milk of his own production for the 2 consecutive months involved.

(2) Any producer who ceases to deliver milk to a handler, the handling of whose milk is subject to the terms hereof, for a period of more than 45 consecutive days, shall forfeit his base. In the event that he thereafter commences to deliver milk to a handler, he shall receive a base computed in the manner provided in paragraph (a) (4) of this section.

(3) In case a producer delivers milk not produced by him as being milk of his own production, his base shall terminate at the beginning of the delivery period during which such milk was delivered and such producer shall be reallotted a base in the manner provided in paragraph (a) (4) of this section.

(4) Any producer, upon giving notice to the market administrator, may relinquish his base at the beginning of the delivery period following that during which notice is given. In the event the producer thereafter requests the market administrator to allot him a base, he shall be allotted a base in the manner provided in paragraph (a) (4) of this section.

(5) Daily bases shall not be transferable except to a person who will produce milk on the same farm, subject to the market administrator's verification and notification thereof, used by the producer from whom the base is transferred, and the producer who thus transfers his base shall forfeit his daily base and may be reallotted a new daily base pursuant only to paragraph (a) (4) of this section.

(6) In the case of a producer who has distributed for at least 3 months the milk he produces and who disposes of all or a part of his delivery routes to a handler, the market administrator shall determine a figure representing 115 percent of the average daily Class I milk produced and disposed of during the previous 3 months on the delivery routes of such producer, which such producer and such handler jointly report as involved in the transaction, subject to verification by the market administrator. If he has distributed his milk for less than 3 months and disposes of his delivery routes the daily base shall be allotted pursuant to paragraph (a) (4) of this section.

(7) A landlord who rents on shares shall be entitled to the entire base to the exclusion of the tenant, if the landlord owns the entire herd. Likewise, the tenant who rents on shares shall be entitled to the entire base to the exclusion of the landlord, if the tenant owns the entire herd. If the cattle are jointly owned by tenant and landlord, the base shall be divided between the joint owners according to the ownership of the cattle, if and when such joint owners terminate the tenant and landlord relationship.*

§ 947.9 *Payments for milk*—(a) *Time and method of payment*—(1) *Advance payments.* On or before the 1st day after the end of each delivery period, each handler shall make payment to produc-

ers for the approximate value of milk received during the first 15 days of such delivery period.

(2) *Final payment.* On or before the 17th day after the end of each delivery period, except as provided in paragraph (g) of this section, each handler shall make payment for the total value of milk received from producers or associations of producers during the preceding delivery period, computed pursuant to § 947.7 (a), subject to the differential set forth in paragraph (c) of § 947.4 and paragraph (f) of this section as follows:

(i) To producers, at not less than the blended price per hundredweight, computed pursuant to § 947.7 (b), for that quantity of milk received from each producer not in excess of his base determined pursuant to § 947.8.

(ii) To producers, at not less than the Class II price, for that quantity of milk received from each producer in excess of his base determined pursuant to § 947.8.

(iii) To any producer who did not regularly sell milk for a period of 30 days prior to the effective date hereof to a handler or to persons within the marketing area, or any producer who for other reasons does not have a base at the Class II price, for all the milk delivered by such producer during the period beginning with the first regular delivery of such producer and continuing until the end of 2 full calendar months following the first day of the next succeeding calendar month.

(iv) To an association of producers for milk which is caused to be delivered to a handler from producers by such association, and for which such association collects payment, a total amount equal to not less than the sum of the individual payments otherwise payable to such producers pursuant to subdivisions (i), (ii), and (iii) of this subparagraph.

(b) *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as "the producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to paragraphs (c) and (e) and out of which he shall make all payments to handlers pursuant to paragraphs (d) and (e) of this section.

(c) *Payment to the producer-settlement fund.* On or before the 13th day after the end of each delivery period each handler shall pay to the market administrator the amount by which the total value of the milk purchased or received by him from producers during the delivery period is greater than the total amount of payments made pursuant to paragraph (a).

(d) *Payments out of the producer-settlement fund.* On or before the 15th day after the end of each delivery period, the market administrator shall pay to each handler for payment to producers the amount, if any, by which the total value of such milk purchased or received from producers by such handler is less than the total amount of payments made pursuant to paragraph (a) of this section. If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. No handler who, on the 15th day after the end of each delivery period, has not received the balance of the payment due him from the market administrator shall be deemed to be in violation of paragraph (a) of this section if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

(e) *Correction of errors in payments to producers.* Errors in making any of the payments required in this section shall be corrected not later than the date for making payments next following the determination of such errors.

(f) *Other differentials.* In making payments to producers or associations of producers prescribed in paragraph (a) of this section handlers may make deductions as follows:

(1) With respect to milk delivered by producers in containers supplied by the handler for the transportation of milk from their farms to the handler's receiving plant, an allowance of $0.0075 per hundredweight as rental for such containers.

(g) *Payments to producers listed for other marketing areas.* (1) Handlers subject to and in compliance with § 947.6 (c) shall pay for the milk received from producers and/or associations of producers listed for each marketing area other than the Fall River marketing area a value equal to not less than the total quantity of such milk multiplied by a blended price determined by (a) multiplying the quantity of milk, from producers and/or associations of producers listed for each area, disposed of in each class by the prices applicable pursuant to § 947.4 (d), (b) adding together the resulting value of each class, and (c) dividing the sum of the values of each class by the quantity of milk included in the computations.

(2) For the purpose of this paragraph, the determination for each marketing area required pursuant to § 947.3 (d) (2) (i) shall be the quantity of Class I milk, and the remaining milk from producers listed for that marketing area shall be the quantity of Class II milk, applicable to the milk of producers listed for such marketing area.

(h) *Payments by handlers not distributing milk in the marketing area.* Handlers subject to § 947.6 (e) shall pay producers through the market administrator the value, if any, determined by multiplying the quantity of milk disposed of by such handlers to other handlers by the difference between the Class II price and the price applicable to the class in which such milk was disposed.

(i) *Payments for milk handled for other markets.* On or before the 13th day after the end of each delivery period, handlers who receive milk pursuant to § 947.6 (d) shall pay to producers through the market administrator, on the quantity of such milk subject to §947.7 (a) (3) (iii) the value, if any, determined by multiplying the quantities of such milk in each class by the prices applicable pursuant to § 947.4 and subtracting the value of such milk at the Class II price.*

§ 947.10 *Marketing services*—(a) *Marketing service deductions.* In making payments to producers pursuant to § 947.9 each handler shall, with respect to all milk delivered by each producer during each delivery period, except as set forth in paragraph (b) of this section, deduct 4 cents per hundredweight, or such lesser amounts as the market administrator shall determine to be sufficient, and shall, on or before the end of such delivery period, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

(b) *Marketing service deductions with respect to members of a producers' cooperative association.* In the case of producers for whom a cooperative association, which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section, each handler shall make such deductions from payment made pursuant to § 947.9, as may be authorized by such producers, and pay over on or before the end of each delivery period such deduction to the associations rendering such service of which such producers are members.

§ 947.11 *Expense of administration*—(a) *Payments by handlers.* As his prorata share of the expense of administration hereof, each handler, except as set forth in § 947.6 (f) and (g), shall, on or before the 13th day after the end of each delivery period, pay to the market administrator five cents per hundredweight or such lesser amount as the market administrator shall determine to be sufficient with respect to all milk produced and delivered by producers including milk received pursuant to § 947.6 (d), but not including milk of producers for marketing areas other than Fall River reported pursuant to § 947.6 (c), and by such handler if he is also a producer during such delivery periods; except that such handler, which is an association of producers, shall pay such prorata share of expense of administration on such milk which it causes to be delivered by member producers to a handler's plant

for the marketing area and for which milk such association of producers collects payment.

(b) *Suits by the market administrator.* The market administrator may maintain a suit in his own name against any handler for the collection of such handler's prorata share of expense set forth in this section.*

§ 947.12 *Effective time, suspension, and termination of order*—(a) *Effective time.* The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.

(b) *Termination of order.* The Secretary may terminate this order whenever he finds that this order obstructs or does not tend to effectuate the declared policy of the act.

This order shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) *Continuing power and duty of the market administrator.* If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handlers, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

The market administrator, or such other person as the Secretary may designate, (a) shall continue in such capacity until discharged by the Secretary, (b) from time to time account for all receipts and disbursements and deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions hereof, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.*

It is hereby determined that an emergency exists which requires a shorter period of notice than that specified in the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, and that the notice herewith given is reasonable under the circumstances.

Issued at Washington, D. C., this 2d day of December, 1941, to become effective on and after the 3d day of December, 1941. Witness my hand and the official seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-9076; Filed, December 2, 1941; 11:41 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3557]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF CHICAGO MEDICAL BOOK COMPANY, ET AL.

§ 3.27 (d) *Combining or conspiring—To enhance, maintain or unify prices:* § 3.27 (h) *Combining or conspiring—To restrain and monopolize trade:* § 3.33 (e) *Cutting off competitors' supplies—Threatening withdrawal of patronage.* In connection with offer, etc., in commerce, of books relating to curative or remedial agents in the treatment of ailments and diseases, commonly known as "medical books", or of any other scientific, educational or other books, and on the part of respondent Chicago Medical Book Co., dealer in such books, and on the part of respondent publishers of such books, entering into or carrying out any agreement, understanding, arrangement, combination or conspiracy, among themselves, or between and among any two or more of them, or between any one or more of them and any other competitor, for the purpose or with the effect of restraining, restricting, hindering, obstructing or eliminating competition in the sale of any such book or books, and as a part or consequence of such agreement, understanding, arrangement, combination or conspiracy, (a) boycotting or attempting to boycott any dealer in such books; (b) refusing to sell books to any such dealer; (c) preventing or attempting to prevent any dealer from purchasing such books at the regular price, trade discount, terms and other usual conditions of sale; and (d) discriminating against any dealer in such books as to price, terms, delivery, discounts or other conditions of sale; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Chicago Medical Book Company, et al., Docket 3557, November 28, 1941]

In the Matter of Chicago Medical Book Company, W. B. Saunders Company, J. B. Lippincott Company, C. V. Mosby Company, Van Antwerp Lea, and Christian Febiger, Copartners Doing Business Under the Firm Name and Style of Lea & Febiger, Respondents

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of November, A. D. 1941.

This proceeding having been heard [1] by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, the testimony and evidence introduced in support of the complaint and in opposition thereto before W. W. Sheppard, a duly appointed trial examiner of the Commission theretofore designated by it to serve in this proceeding, the report of the trial examiner thereon and the exceptions to said report, the briefs filed on behalf of the Commission and of the respondents, and the Commission having made its findings as to the facts and its conclusion that all of the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents Chicago Medical Book Company, a corporation, W. B. Saunders Company, a corporation, J. B. Lippincott Company, a corporation, C. V. Mosby Company, a corporation, and their respective officers, directors, representatives, agents and employees, and the successors of each of said corporate respondents, and respondents Van Antwerp Lea and Christian Febiger, individually and as copartners doing business under the firm name and style of Lea & Febiger, or under any other trade name or style, or through any corporate or other device, together with their representatives, agents and employees, directly or indirectly, in connection with the offering for sale, sale and distribution in commerce as "commerce" is defined in the Federal Trade Commission Act, of books relating to curative or remedial agents in the treatment of ailments and diseases, commonly known as "medical books", or of any other scientific, educational or other books, shall forthwith cease and desist from:

Entering into or carrying out any agreement, understanding, arrangement, combination or conspiracy, among themselves, or between and among any two or more of them, or between any one or more of them and any other competitor, for the purpose or with the effect of restraining, restricting, hindering, obstructing or eliminating competition in the sale of any such book or books, and as a part or consequence of such agreement, under-

[1] 5 F.R. 1425.

standing, arrangement, combination or conspiracy, from doing any of the following acts or things:

(a) Boycotting or attempting to boycott any dealer in such books;

(b) Refusing to sell books to any such dealer;

(c) Preventing or attempting to prevent any dealer from purchasing such books at the regular price, trade discount, terms and other usual conditions of sale;

(d) Discriminating against any dealer in such books as to price, terms, delivery, discounts or other conditions of sale.

It is further ordered, That the respondents, Chicago Medical Book Company, a corporation, W. B. Saunders Company, a corporation, J. B. Lippincott Company, a corporation, C. V. Mosby Company, a corporation, and Van Antwerp Lea and Christian Febiger, copartners doing business under the firm name and style of Lea & Febiger, and each of them shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 41-9050; Filed, December 2, 1941; 11:24 a. m.]

[Docket No. 4570]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF QUEEN CHEMICAL COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety:* § 3.71 (e) *Neglecting, unfairly or deceptively, to make material disclosure—Safety.* In connection with offer, etc., of respondent's medicinal preparation known as Shrader's Queen Brand Capsules and as Queen Brand Capsules, or any other substantially similar preparation, disseminating, etc., any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or by implication, that said preparation is a safe, harmless, and effective treatment for delayed, suppressed, irregular, painful, or scanty menstruation, or other derangements of the menstrual function; or which advertisements fail to reveal that the use of said preparation may cause gastro-intestinal disturbances, pelvic congestion, and excessive uterine hemorrhages, and in cases of pregnancy may cause infection of the pelvic organs and blood poisoning; prohibited. (Sec. 5, 38 Stat. 719, as amended by sec. 3, 52 Stat. 112; 15 U.S.C., Sup. IV, sec. 45b) [Cease and desist order, Queen Chemical Company, Docket 4570, November 26, 1941]

In the Matter of Charles Shrader, Individually and Trading Under the Name Queen Chemical Company

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 26th day of November, A. D. 1941.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and respondent's answer thereto, and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Charles Shrader, individually and trading under the name Queen Chemical Company, or trading under any other name or names, his agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of his medicinal preparation known as Shrader's Queen Brand Capsules and as Queen Brand Capsules, or of any other medicinal preparation of substantially similar composition or possessing substantially similar properties, whether sold under the same name or under any other name, do forthwith cease and desist from directly or indirectly:

1. Disseminating or causing to be disseminated any advertisement by means of the United States mails, or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which advertisements represent, directly or by implication, that said preparation is a safe, harmless, and effective treatment for delayed, suppressed, irregular, painful, or scanty menstruation, or other derangements of the menstrual function; or which advertisement fails to reveal that the use of said preparation may cause gastro intestinal disturbances, pelvic congestion, and excessive urine hemorrhages, and in cases of pregnancy may cause infection of the pelvic organs and blood poisoning;

2. Disseminating or causing to be disseminated any advertisement by any means for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, of said preparation, which advertisement contains any of the representations prohibited in paragraph 1 hereof, or which advertisement fails to reveal the dangerous consequences which may result from the use of said preparation, as required in paragraph 1 hereof.

It is further ordered, That the respondent shall, within ten (10) days after service upon him of this order, file with the Commission an interim report in writing stating whether he intends to comply with this order, and, if so, the manner and form in which he intends to comply, and that within sixty (60) days after the service upon him of this order, respondent shall file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 41-9049; Filed, December 2, 1941; 11:23 a. m.]

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T.D. 50523]

PART 4—APPLICATION OF CUSTOMS LAWS TO AIR COMMERCE [1]

OGDENSBURG MUNICIPAL AIRPORT, OGDENSBURG, NEW YORK, DESIGNATED AS AN AIRPORT OF ENTRY FOR A PERIOD OF ONE YEAR

NOVEMBER 29, 1941.

The Ogdensburg Municipal Airport, Ogdensburg, New York, is hereby designated as an airport of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the Air Commerce Act of 1926 (U.S.C. title 49, sec. 179 (b)), for a period of one year from December 10, 1941. (Sec. 7 (b), 44 Stat. 572; 49 U.S.C. 177 (b))

[SEAL] HERBERT E. GASTON, *Acting Secretary of the Treasury.*

[F. R. Doc. 41-9046; Filed, December 2, 1941; 11:22 a. m.]

TITLE 21—FOOD AND DRUGS

CHAPTER I—FOOD AND DRUG ADMINSTRATION

PART 15—WHEAT FLOUR AND RELATED PRODUCTS; DEFINITIONS AND STANDARDS OF IDENTITY

IN THE MATTER OF A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: * * * (B) ENRICHED FLOUR * * * (D) ENRICHED BROMATED FLOUR * * * (G) ENRICHED SELF-RISING FLOUR * * * (O) ENRICHED FARINA * * *

Order Postponing Effective Date of Requirement of the Ingredient Riboflavin

The Acting Federal Security Administrator, by an order dated May 26, 1941, to become effective January 1, 1942, which was published in the FEDERAL REGISTER for May 27, 1941, made public his action promulgating regulations fixing and establishing definitions and standards of identity for the enriched foods named in the caption hereof (21 CFR 15.010, 15.030, 15.060, and 15.140, 6 F. R. 2574–2582).

[1] This document affects the tabulation in 19CFR 4.13.

Each of said regulations requires that the food for which a definition of a standard of identity is established thereby contain, among other ingredients, in each pound thereof not less than 1.2 milligrams of riboflavin.

It appears that the supply of riboflavin, in forms suitable for addition to such foods, is not sufficient to permit the production of the foods on a scale that would meet current demands, but that such supply will be available by July 1, 1942.

It is ordered, Therefore that the effective date of the requirements of said order that each pound of enriched flour, enriched bromated flour, enriched self-rising flour, and enriched farina contain not less than 1.2 milligrams of riboflavin be postponed to July 1, 1942. (Sec. 701, 52 Stat. 1055; 21 U.S.C., Sup. 371)

PAUL V. McNUTT,
Federal Security Administrator.

NOVEMBER 29, 1941.

[F. R. Doc. 41-9044; Filed, December 2, 1941; 11:04 a. m.]

[Docket No. FDC-24]

PART 125—LABEL STATEMENTS CONCERNING DIETARY PROPERTIES OF FOOD PURPORTING TO BE OR REPRESENTED FOR SPECIAL DIETARY USES

CORRECTION OF ORDER

An order promulgating regulations prescribing label statements concerning dietary properties of food purporting to be or represented for special dietary uses having been issued in the above-entitled matter on November 18, 1941, 6 F.R. 5921; and

It appearing that paragraph (a) of § 125.06 *Label statements relating to certain food used in control of body weight or in dietary management with respect to disease* of the said regulations appears therein as follows:

(a) the percent by weight of protein; fat, and available carbohydrates in such food; and

whereas the said paragraph should have appeared therein as follows:

(a) the percent by weight of protein, fat, and available carbohydrates in such food; and

Now, therefore it is ordered, That the said paragraph of the said section of the said regulations promulgated in the above-entitled matter be and it hereby is corrected to read as follows:

(a) the percent by weight of protein, fat, and available carbohydrates in such food; and

(Sec. 701, 52 Stat. 1055; 21 U.S.C., Sup., 371)

PAUL V. McNUTT,
Administrator.

NOVEMBER 28, 1941.

[F. R. Doc. 41-9045; Filed, December 2, 1941; 11:04 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-1097]

PART 327—MINIMUM PRICE SCHEDULE, DISTRICT NO. 7

ORDER GRANTING TEMPORARY RELIEF AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 7 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 7

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District No. 7; and

It appearing that a reasonable showing of necessity has been made for the granting of temporary relief in the manner hereinafter set forth; and

No petitions of intervention having been filed with the Division in the above-entitled matter; and

The following action being deemed necessary in order to effectuate the purposes of the Act;

It is ordered, That, pending final disposition of the above-entitled matter, temporary relief is granted as follows: Commencing forthwith, § 327.34 (*General prices in cents per net ton for shipment into any market area*) is amended by adding thereto supplement T, which supplement is hereinafter set forth and hereby made a part hereof.

No relief is granted herein to Gaston Coal Company, Gaston No. 2 Mine, Mine Index No. 255, R. H. Hayes (Hayes Coal Co.), Mead Poca. No. 3 Mine, Mine Index No. 265, and I. R. Thompson, Amick Mine, Mine Index No. 508, Code Members in District No. 7, for All Shipments Except Truck, as these mines are affected by unique considerations set forth in an Order designating that portion of Docket No. A-1097 which relates to it as Docket No. A-1097 Part II and granting temporary relief.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the temporary relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

It is further ordered, That the relief herein granted shall become final sixty (60) days from the date of this Order, unless it shall otherwise be ordered.

Dated: November 14, 1941.

[SEAL] H. A. GRAY,
Director.

TEMPORARY AND CONDITIONALLY FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 7

NOTE: The material contained in this Supplement T is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and supplements thereto.

FOR TRUCK SHIPMENTS

§ 327.34 *General prices in cents per net ton for shipment into any market area*—Supplement T

Code member index	Mine index No.	Mine	Sub-district No.	County	Seam	All lump ¾" or larger, all egg and stove	All nut or pea 1¼" top size or smaller	Screened M/R	Straight mine run	1¼" screenings	¾" screenings
						1	2	3	4	5	6
Gaston Coal Company	255	Gaston #2	5	Wyoming	Poca. 3	290	250	280	215	195	190
Hayes, R. H. (Hayes Coal Co.)	265	Mead Poca. #3	5	Wyoming	Poca. 3	290	----	280	215	195	190

[F. R. Doc. 41-9013; Filed, December 1, 1941; 11:12 a. m.]

[Docket No. A-1009]

PART 328—MINIMUM PRICE SCHEDULE, DISTRICT NO. 8

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION AND ORDER IN THE MATTER OF THE PETITION OF DISTRICT BOARD 8 REQUESTING REVISION OF THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR THE COALS OF CERTAIN MINES IN BELL COUNTY, KENTUCKY, SOUTHERN APPALACHIAN SUBDISTRICT, IN DISTRICT 8, FOR SHIPMENT BY TRUCK

This is a matter instituted upon an original petition filed on August 13, 1941, with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, by District Board 8. Petitioner requests and proposes a revision of the seam designations and applicable effective minimum prices for coals produced for shipment by truck at certain mines in Bell County, Kentucky, Southern Appalachian Subdistrict, in District 8.

Pursuant to Order of the Director, a hearing in this matter was held on September 29, 1941, before Scott A. Dahlquist, a duly designated Examiner of the Division, at a hearing room thereof in Washington, D. C. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. District Board 8 appeared.

The preparation and filing of a report by the Examiner was waived and the matter was thereupon submitted to the undersigned.

Uncontroverted evidence was introduced by John F. Daniel, a representative of District Board 8, that investigation conducted since the hearings in General Docket No. 15 had revealed that certain revisions, as listed in the instant petition were necessary in order to preserve the existing fair competitive opportunities of certain mines in Bell County, Kentucky, in the Southern Appalachian Subdistrict of District 8.

Based upon a consideration of the record, the undersigned finds and concludes that the revision of such seam designations and applicable effective minimum prices as set forth in supplement T annexed hereto is necessary in order to effectuate the purpose of sections 4 II (a) and 4 II (b) of the Act and that the prices as set forth therein comply with all the standards thereof.

Now, therefore, it is ordered, That commencing fifteen (15) days from the date hereof § 328.34 (*General prices for high volatile coals in cents per net ton for shipment into all market areas*) in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments be and the same hereby is amended in accordance with supplement T, annexed hereto and made a part thereof.

Dated: November 14, 1941.

[SEAL] H. A. GRAY,
Director.

FOR TRUCK SHIPMENTS

NOTE: The material contained in this supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and supplements thereto.

§ 328.34 *General prices for high volatile coals in cents per net ton for shipment into all market areas*—Supplement T

Code member index	Mine	Mine index No.	Seam	Base sizes							
				Lump over 2" egg 4" x 6"	Lump 2" and under, egg 3" x 6"	Lump ¾" and under	Egg 2" x 4", egg 2" x 3"	Stove 3" and under, nut 2" and under	Straight mine run	2" and under slack	¾" and under slack
				1	2	3	4	5	6	7	8
SUBDISTRICT NO. 6—SOUTHERN APPALACHIAN											
BELL COUNTY, KY.											
Brooks, Jones & Barnett (Staley Brooks).	Brooks, Jones & Barnett.	2067	Blue Gem	285	265	*220	*240	215	*210	155	150
Cawood, A. G	Cawood Coal Co	1300	Mason	255	235	*215	220	205	*205	*145	*140
Cole & Hurst (Cannon Creek Coal Co.).	Cannon Creek	1301	Barner**	285	265	*220	*240	215	*210	155	150
Cox, Vanus	Cox	1502	Mason**	255	235	*215	*220	*205	*205	*145	*140
Craft, Harrison	Craft	4015	Mason	255	235	215	220	205	205	*145	*140
Day, Tilford	New Mathel	1504	Mason**	255	235	*215	*220	*205	*205	*145	*140
Douglas, Simon		1506	Mason	285	265	*220	*240	215	*210	155	150
Ellison, Robert	Ellison	1506	Mason	285	265	*220	*240	215	*210	155	150
Excelsior Mining Company	Excelsior	1563	Mason	*255	*235	*215	*220	*205	*205	*145	*140
Hardin, George B	Hardin	3283	Mason	255	235	215	220	205	205	*145	*140
Henson, T. J	Red Bird	3463	Barner**	285	265	*220	*240	215	*210	155	150
Hickman, Fred (Davis Branch Coal Co.).	Davis Branch	1517	Mason	285	265	*220	*240	215	*210	155	150
Hodge, Lee	Hodge	4019	Mason	255	235	215	220	205	205	*145	*140
Houston Brothers (E. Houston).	Carolina	1494	Mason	285	265	*220	*240	215	*210	155	150
Hurst, Riley	Taylor	1556	Blue Gem**	285	265	*220	*240	215	*210	155	150
Ingram, John	Ingram	1520	Blue Gem**	285	265	*220	*240	215	*210	155	150
Knuckles, J. C	Overlook	4006	Mason	285	265	*220	*240	215	*210	155	150
Lane & Owens (Helin Lane)	Lane & Owens	1524	Blue Gem**	285	265	*220	*240	215	*210	155	150
Mason Coal Company (Hay Wilson).	Mason	4011	Mason	255	235	215	220	205	205	*145	*140
Massey, Hal	Massey	1532	Mason**	255	235	*215	*220	*205	*205	*145	*140
McGeorge & McCabe (Lee McGeorge).	Mac & Mac	1529	Mason	*255	*235	*215	*220	*205	*205	*145	*140
Minton, G. Neal	Minton	5047	Blue Gem**	*285	*265	*220	*240	*215	*210	*155	*150
Miracle, L. D	Miracle	3464	Mason	255	235	215	220	205	205	*145	*140
Moore, Dewey	Moore	2554	Mason	255	235	215	220	205	205	*145	*140
Moyers, T	T. Moyers	1539	Mason	285	265	*220	*240	215	*210	155	150
New Hope Coal Mining Company (B. F. Alley).	Creech	572	Mason	255	235	215	220	205	205	*145	*140
New Long Ridge Coal Company (Isaac Slusher).	Long Ridge	208	Mason	*255	*235	*215	*220	*205	*205	*145	*140
Patterson & Mills (Tom Patterson).	Patterson & Mills	2732	Mason	285	265	*220	*240	215	*210	155	150
Renner, Hayes	Renner	2585	Mason	285	265	*220	*240	215	*210	155	150
Reese & Yoakum (Milton Reese)	Reese & Yoakum	2092	Blue Gem**	285	265	*220	*240	215	*210	155	150
Robertson & Chumley (E. M. Robertson).		1547	Blue Gem**	285	265	*220	*240	215	*210	155	150
Sanders-Ellison Coal Company	Sanders-Ellison	2733	Mason	285	265	*220	*240	215	*210	155	150
Slusher, Boyd	Boyd Slusher	1553	Mason**	*285	*265	*220	*240	*215	*210	*155	*150
Slusher, C. B	Britt	4004	No. 4	*285	*265	*220	*240	215	*210	*155	*150
Thomas, Hubert	Thomas	1560	Mason	285	265	*220	*240	215	*210	155	150
Turner & Henson (C. E. Henson)	Turner & Henson	1562	Mason	285	265	*220	*240	215	*210	155	150
Whipple Coals, Inc	Whipple	108	Mason	*255	*235	*215	*220	*205	*205	*145	*140
Wilder, Geo. W	Wilder	1570	Mason**	255	235	*215	*220	*205	*205	*145	*140
Williams, Henry Kay	Red Rooster	4067	Barner**	*285	*265	*220	*240	*215	*210	*155	*150
Williams, Lige & Elcinia Banks (Lige Williams)	Elcinia	4018	Blue Gem**	285	265	220	240	215	210	155	150
Williamson, Gaines	Williamson	2837	Mason	*285	*265	*220	*240	*215	*210	*155	*150
Wilson, Pascal	Wilson	1573	Blue Gem**	285	265	*220	*240	215	*210	155	150
York, Walter	York	1581	St. Creek**	*295	*275	225	245	215	215	*165	*160

*Indicates change in price classification from previous price classification for the respective size groups.
**Indicates change in seam designation.

[F. R. Doc. 41-9009; Filed, December 1, 1941; 11:13 a. m.]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT NO. 10

ORDER APPROVING AND ADOPTING PROPOSED FINDINGS OF FACT AND PROPOSED CONCLUSIONS OF LAW OF THE EXAMINER, AND GRANTING RELIEF IN THE MATTER OF THE PETITION OF THE LUMAGHI COAL COMPANY FOR ESTABLISHMENT OF A MOISTURE ALLOWANCE ON TRUCK SHIPMENTS FROM MINE INDEX NO. 23 (CANTINE MINE NO. 2), DISTRICT NO. 10, IN SIZE GROUPS 17–25

This proceeding was instituted upon a petition filed with the Bituminous Coal Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, by the Lumaghi Coal Company, a code member in District No. 10. The petition requests that the price schedule for coal produced at Petitioner's Cantine Mine No. 2 (Mine Index No. 23), District No. 10, be amended to permit the granting of moisture allowances on washed coals shipped by truck similar to the moisture allowances now permitted on washed coals shipped by rail.

Pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure In Proceedings Instituted Pursuant to section 4 II (d) of the Act, an informal conference on the question of temporary relief was held on November 15, 1940. Appearances at this conference were entered on behalf of the Petitioner; the Consolidated Coal Company, a code member in District No. 10, which had filed an intervening petition in support of the relief requested in the original petition; Mt. Olive and Staunton Coal Company, District No. 10, which neither supported nor opposed the proposed relief; the Consumers' Counsel Division, which supported the relief prayed for in the original petition; and the Midwest Radiant Corporation, Truax-Traer Coal Company, United Electric Coal Companies, Southwestern Illinois Coal Corporation and Pyramid Coal Company, all of which opposed the relief proposed in the original petition.[1]

Pursuant to an Order dated December 16, 1940, in which the Director denied a request for temporary relief, a hearing in this matter was held on January 17, 1941, before D. C. McCurtain, a duly designated Examiner of the Division, at a hearing room thereof in Washington, D. C. All interested persons were afforded an opportunity to be present and to participate fully in the proceeding.

The Examiner, on October 10, 1941, submitted his Report, Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations, recommending that the relief requested herein be granted. He found that the Petitioner's request for relief was based upon the fact that when coal is shipped shortly after washing, it retains extraneous moisture varying in amount from one-half percent to 12 percent, depending upon the size of the coal and the type of washing equipment. Since, as provided in the railroad tariffs, the producer is permitted to make a correction for the weight in order to take account of this extraneous moisture when invoicing coal shipped by rail, it was the opinion of the Examiner that similar permission should be granted to coals shipped by truck. The Examiner therefore concluded that where provision for moisture allowance is made in a railroad tariff, the identical allowance should be made for shipments by truck, so long as the conditions imposed by the tariffs for rail shipment are adhered to when shipment is made by truck. Likewise, he further found that similar moisture allowances should be granted, upon adequate proof, to mines that had no rail facilities but have washing equipment and shipping methods similar to mines that are granted moisture allowances by railroad tariffs.

While the Examiner found no evidence of any direct loss of business by the petitioner because of his inability to grant moisture allowances on truck shipments, the relief recommended was justified on several other grounds. The Lumaghi Coal Company deals primarily with dealers, and as the Examiner indicates, the dealers are in a position to pass on their losses to the consuming public. Nevertheless, it was found that the dealers complained both to the Lumaghi Coal Company and to the Consolidated Coal Company about the excessive water in their coal. On the ground that the Act specifically requires that "minimum prices shall have due regard to the interests of the consuming public," the Examiner found that unless this relief were granted, the consumer purchasing truck-shipped coal would be at a disadvantage in relation to the consumer who purchased rail-shipped coal. He also found that the granting of permission to give a moisture allowance for shipments by truck reestablishes the proper differential between rail and truck shipments of coal. Further, the producers who are able to de-water and ship their coal in a drier state were found to possess definite competitive opportunities over producers without de-watering facilities or without the privilege of granting moisture allowances for washed coal.

Petitioner has made an adequate showing of the need for relief. To preserve the fair competitive opportunities of the producers and the interests of the consuming public, it is necessary that the requested relief be extended to producers of washed coal shipped by truck.

An opportunity was afforded to all parties to file exceptions to the Proposed Findings of Fact, Proposed Conclusions of Law, and Recommendations of the Examiner and supporting briefs. No exceptions or supporting briefs have been filed.

The undersigned has determined that the Proposed Findings of Fact and the Proposed Conclusions of Law of the Examiner in this matter should be approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

Now, therefore, it is ordered, That the said Proposed Findings of Fact and Proposed Conclusions of Law of the Examiner be and they hereby are approved and adopted as the Findings of Fact and Conclusions of Law of the undersigned.

It is further ordered, That, commencing fifteen (15) days from the date of this order, § 330.21 (*Price instructions and exceptions*—(b) *Price exceptions*) in the Schedule of Effective Minimum Prices for District No. 10 for Truck Shipments should be amended by the addition of the following Price Exceptions:

There may be granted on shipments of washed coals in Size Groups 17–25 the same moisture allowances as are permitted for shipments of comparable coals by rail under an effective railroad tariff, and all supplements thereto and reissues thereof, when all conditions necessary for granting such allowances for rail shipments are fulfilled: *Provided, however,* That this exception shall apply only to those code members who have filed with the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C., a certification joined in by the district board as to their complete method of operation, preparation and classification of the type of washing equipment used; *And, Provided, further,* That the Division reserve the right to revoke the application of this Price Exception to any code member if it is shown that a certification filed pursuant to this exception by the code member was inaccurate or misleading.

It is further ordered, That the prayers for relief contained in the petition herein be, and they hereby are, granted to the extent set forth above, and in all other respects denied.

Dated: November 28, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41–9069; Filed, December 2, 1941; 11:55 a. m.]

[1] District Board 11 also filed a petition for leave to intervene, but did not appear at either the informal conference or the final hearing.

[Docket No. A–1043, Pt. II]

PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

ORDER CANCELLING HEARING AND CONDITIONALLY PROVIDING FOR FINAL RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 14 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE BLUE RIDGE COAL CO. MINE (MINE INDEX NO. 517) FOR ALL SHIPMENTS EXCEPT TRUCK, AND FOR TRUCK SHIPMENTS, TO ALL MARKET AREAS

An original petition pursuant to section 4 II (d) of the Bituminous Coal Act of 1937 was duly filed on September 2, 1941 by the above-named party, requesting the establishment, *inter alia,* of temporary and permanent price classifications and minimum prices for the coals of the Blue Ridge Coal Co. Mine (Mine Index No. 517).

On October 1, 1941 the Blue Ridge Coal Company filed a petition of intervention alleging that the minimum prices proposed by District Board No. 14 for the coals of Mine Index No. 517 would not afford such coals fair and equal competitive marketing opportunities, and requesting the establishment of the price classifications and minimum prices set forth in the petition of intervention.

By Order of the Director dated October 28, 1941, 6 F.R. 5542, the price classifications and minimum prices proposed by District Board No. 14 were temporarily established for the coals of the Blue Ridge Coal Co. Mine. This order further severed that portion of Docket No. A-1043, relating to the coals of the Blue Ridge Coal Co. Mine, from the remainder of the petition therein, designated such portion as Docket No. A-1043, Part II, and scheduled a hearing therein at Washington, D. C. on November 14, 1941.

On November 13, 1941 the Blue Ridge Coal Company filed a motion for leave to dismiss its petition of intervention. However, due to the fact that the hearing in this matter was scheduled to convene on the succeeding day no action was taken in regard to this motion prior to the hearing.

The hearing in this matter convened as scheduled on November 14, 1941 at Washington, D. C., before Examiner Floyd McGown. No appearances were entered by any parties to the proceeding, and the hearing was thereupon continued until December 9, 1941.

It appears that this matter was set for hearing upon the basis of the allegations contained in the petition of intervention filed by the Blue Ridge Coal Company and that in view of the motion of the Blue Ridge Coal Company for dismissal of its petition of intervention, there is no opposition to the permanent establishment of the price classifications and minimum prices temporarily in effect for the coals of Mine Index No. 517.

Now, therefore, it is ordered, That the motion of the Blue Ridge Coal Company for dismissal of its petition of intervention be, and the same hereby is, granted.

It is further ordered, That the hearing in this matter, now scheduled for December 9, 1941, be and the same hereby is cancelled.

It is further ordered, That the temporary relief granted in the Order dated October 28, 1941, which amends § 334.5 (*Alphabetical list of code members*) and § 334.24 (*General prices for shipment into all market areas*) in the Schedule of Effective Minimum Prices for All Shipments Except Truck and For Truck Shipments by including the coals of the Blue Ridge Coal Company Mine (Mine Index No. 517) shall become final sixty (60) days from the date of this Order, unless the Acting Director shall otherwise order.

It is further ordered, That pleadings in opposition to the original petition in the above-entitled matter and applications to stay, terminate or modify the relief herein granted may be filed with the Division within forty-five (45) days from the date of this Order, pursuant to the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9070; Filed, December 2, 1941; 11:55 a. m.]

[Dockets Nos. A-137, Pt. II and A-737]

PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION, AND ORDER IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 14 FOR THE REVISION OF THE PRICE CLASSIFICATIONS AND MINIMUM PRICES HERETOFORE ESTABLISHED FOR CERTAIN COALS OF GREAT WESTERN COAL COMPANY, MINE INDEX NO. 44, IN DISTRICT NO. 14, AND IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 14 FOR THE REVISION OF THE PRICE CLASSIFICATIONS AND MINIMUM PRICES HERETOFORE ESTABLISHED FOR CERTAIN COALS OF GREAT WESTERN COAL COMPANY, MINE INDEX NO. 44, IN DISTRICT NO. 14

These proceedings were instituted upon petitions filed with the Bituminous Coal Division by District Board 14, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. In Docket No. A-137, the petition requests revision of the price classifications and minimum prices for the coals of certain code-member producers in District 14, including those of the Great Western Coal Company, a code-member producer in Production Group 5, operating the Great Western Mine (Mine Index No. 44). In Docket No. A-737, the petition requests the change of the price classification for the coals in Size Group 8 produced at the Great Western Mine from K to J for rail shipments.

At a hearing in Docket No. A-137 and Dockets Nos. A-208 and A-251, consolidated therewith, on motion of District Board 14 that portion of the petition in Docket No. A-137 relating to Great Western was continued until a later date, subject to the further order of the Director.

Temporary relief was granted in Docket No. A-137, on January 28, 1941, 6 F.R. 691, *inter alia,* by changing the price classifications of the coals of the Great Western Mine in Size Group 4 from H to I, and in Size Groups 6 and 7 from K to J.

A petition for intervention in Dockets Nos. A-137 and A-208, filed by Great Western, as amended, requested that it be allowed such relief as has been granted to the Buck Creek Coal Mining Company and the R. A. Young & Son Coal Company, code members in District 14, in Dockets Nos. A-137, A-405, A-409, and A-421, namely, that the price classifications of Great Western coals be changed in Size Group 4 to J, in Size Groups 6, 7, and 8 to K, and in Size Groups 9 to L, and that it be granted any other relief allowed to the aforesaid other two code members.

A petition for intervention in Docket No. A-737, filed by Great Western, requested consolidation of that docket with that portion of Docket No. A-137 relating to Great Western. Accordingly, on June 27, 1941, that portion of Docket No. A-137 relating to the coals produced at the Great Western Mine was severed from the remainder of Dockets Nos. A-137, A-208, and A-251, was designated Docket No. A-137, Part II, and was consolidated with Docket No. A-737.

Pursuant to Orders of the Director, a hearing in this matter was held on July 30 and 31, 1941, before D. C. McCurtain, a duly designated Examiner of the Division, at a hearing room thereof at Fort Smith, Arkansas. All interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. The petitioner, the Great Western Coal Company, Buck Creek Coal Mining Company, and Hetherington Bros. Coal Company, a code-member producer in District 14, appeared.

At the hearing, the petition in Docket No. A-137, Part II, was amended with respect to the revision of the price classifications and minimum prices sought for the coals of the Great Western Mine.

Following the hearing, the parties waived the preparation and filing of a report by the Examiner, and the record was thereupon submitted to the undersigned.

The relief here sought by the petitioner is a revision of the price classifications and minimum prices heretofore established for the coals of Great Western, for shipments other than truck and for truck shipments, by lowering the effective minimum prices[1] for the coals in Size Groups 4 and 9 five cents per ton, and by raising such prices in Size Groups 6, 7, and 8 ten cents per ton, and in Size Group 10 twenty cents per ton. This would result in a minimum price of $4.15 in Size Groups 4, 6, 7 and 8 for truck shipments and for rail shipments to all market areas except Market Area 40. These price classifications are already in effect under the temporary relief granted in Dockets Nos. A-137, A-208 and A-251, with respect to Size Groups 4, 6 and 7. In Size Group 8, the requested classification in Docket A-137, Part II, is the same as that requested in Docket No. A-737. No changes in price classifications and minimum prices for coals in Size Groups 11 to 18, inclusive, are proposed.

[1] Established in General Docket No. 15.

It was found in the Memorandum Opinion and Order entered on January 28, 1941, granting temporary relief that coals of the Great Western Mine in Size Groups 4, 6, and 7 should be temporarily priced identically because the preparation facilities of this mine have been improved since the Director's Order in General Docket No. 15 was issued. Under effective minimum prices established in that docket, Size Group 4 is priced 15 cents higher than Size Groups 6, 7, and 8. The Memorandum Opinion stated that it was represented that, in District 14, owing to consumer acceptance, generally the prices are the same in these four size groups, that the existing differential was proposed by District Board 14 in General Docket No. 15 after protest by Great Western against the original proposal of that Board to price identically the coals in these four size groups. The Memorandum Opinion further stated that it was represented that the protest was based on the inferiority of the preparation facilities then in use in the Great Western Mine. The Memorandum Opinion found that the accomplishment of identical pricings for coals in these four size groups should be attained by decreasing the prices of coals in Size Group 4 and increasing the prices of coals in Size Groups 6 and 7, in order to conform such prices to those for the analytically similar coals of the Woodson Mine of Paul Rees in Production Group 6, and more nearly to approach the past price differential between Great Western and Excelsior "A" grade coals. In the Memorandum Opinion the fact that 75 percent of the total shipments of Great Western coals were made to Market Area 40 from July 1 to November 30, 1940, was also taken into consideration. The effective minimum prices of Great Western coals for shipments into Market Area 40 are 35 cents less than for such coals for shipments into other market areas.

The petition in Docket No. A-737 alleges that Great Western is accorded an unfair advantage over other code members having the same prices in Size Groups 4 to 8, inclusive, because of the differential between the prices of coals in Size Groups 4 and 8 which have comparable trade acceptance.

From the evidence adduced at the hearing, it appears that experience under actual working conditions subsequent to October 1, 1940, has convinced District Board 14, after careful consideration of the various factors involved, that the price classifications and minimum prices proposed by it for the Great Western Mine in General Docket No. 15 should be changed as herein proposed. The evidence shows that the coals of Great Western are practically identical from a marketing standpoint with those of the Buck Creek and Hether Mines in Production Group 6 and the Young No. 1 Mine in Production Group 5, and that the coals of all four of these mines should be on an equality in price. All four mines are in the Upper Hartshorne Vein. Their coals move in competition with each other.

There are no other District 14 mines with the same prices as those herein proposed. Coals of Mine Index No. 44 are presently produced only in Size Groups 4 and 6 to 9, inclusive. The prices in effect for the Buck Creek, Hether, and Young No. 1 Mines under the Temporary Order of the Director, issued on January 28, 1941, are lower for the coals in Size Groups 4 and 6 to 9, inclusive, than those herein proposed. However, the price classifications and minimum prices of the Great Western Mine in these size groups should not be lowered to those in effect for the Buck Creek, Hether, and Young No. 1 Mines, in the light of the uncontroverted evidence that the changes requested herein are just and proper in view of the physical characteristics and market acceptability of the Great Western coals. Moreover, the attorney for District Board 14 stated in the record that the attitude of District Board 14 is that the same recommendations for permanent relief should be made regarding the price classifications and minimum prices for the Buck Creek, Hether, and Young No. 1 Mines as are made herein for the Great Western Mine, and that similar evidence would be submitted as to all four of these mines, in the respective hearings on the question of permanent relief. The District Board attorney further stated that the other three producers have agreed to offer no oposition to the Board's proposals. The attorney for Great Western stated in the record that, in view of such an agreement, his client has no objection to the granting of the relief requested by the petitioner.

In the opinion of a witness for the petitioner, the price classifications and minimum prices herein proposed would not operate prejudicially as to any other mines, would not cause any substantial dislocation or change of tonnage, and would preserve the fair competitive opportunities of the Buck Creek, Great Western, Hether, and Young No. 1 Mines. Were the prices for the coals produced by those mines not properly related, however, the realization of Great Western, lowered in 1940, might be even further decreased.

Upon the basis of the uncontroverted evidence, I find and conclude that the price classifications and minimum prices for the coals of the Great Western Mine of the Great Western Coal Company should be revised in Size Groups 4 and 6 to 10, inclusive, to conform to those requested in the amended petition in Docket No. A-137, Part II, for those size groups and that such revisions are required in order to effectuate the policies of sections 4 II (a) and 4 II (b) of the Act and to comply in all respects with the standards thereof.

Now, therefore, it is ordered, That § 334.5 (*Alphabetical list of code members*) and § 334.24 (*General prices for shipment into all market areas*) in the Schedule of Effective Minimum Prices for District No. 14 for All Shipments Except Truck and the Schedule of Effective Minimum Prices for District No. 14 for Truck Shipments be, and they hereby are, amended as follows:

1. The present effective price classifications and minimum prices for the coals produced by the Great Western Mine (Mine Index No. 44) of Great Western Coal Company in Production Group 5 in Size Groups 4 and 6 to 10, inclusive, be, and they hereby are, deleted.

2. Beginning forthwith, the price classifications and minimum prices as set forth in supplement R, § 334.5 (*Alphabetical list of code members*), and supplement T, § 334.24 (*General prices for shipment into all market areas*), annexed hereto and made a part hereof, shall be, and they hereby are, established as the effective price classifications and minimum prices for coals produced at the Great Western Mine (Mine Index No. 44) of Great Western Coal Company in Production Group 5.

It is further ordered, That in all other respects the prayers for relief contained in the several petitions filed herein be, and they hereby are, denied.

Dated: November 7, 1941.

[SEAL] H. A. GRAY,
Director.

FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 334, Minimum Price Schedule for District No. 14 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 334.5 *Alphabetical list of code members*—Supplement R

Mine index No.	Code member	Mine name	Production group No.	Shipping point	Railroad	Freight origin group No.	Price classification by size group																	
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
44	Great Western Coal Company.	Great Western	5	Fire Chief, Ark.	SL-SF	16	-----	-----	-----	I	-----	J	J	J	J	G	(*)	-----	(*)	(*)	(*)	(*)	(*)	(*)	-----	-----

*Minimum price classifications established for these sizes. No changes requested.

FOR TRUCK SHIPMENTS

§ 334.24 *General prices for shipment into all market areas*—Supplement T

Mine index No.	Code member	Mine name	Product group No.	County	Prices and size group Nos.																			
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
44	Great Western Coal Company	Great Western	5	Fire Chief, Arkansas	-----	-----	-----	415	-----	415	415	415	390	370	(*)	-----	(*)	(*)	(*)	(*)	(*)	(*)	-----	-----

*Minimum prices established for these sizes. No changes requested.

[F. R. Doc. 41-9010; Filed, December 1, 1941; 11:13 a. m.]

[Docket No. A-409]

PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND MEMORANDUM OPINION AND ORDER IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 14 FOR THE ESTABLISHMENT AND REVISION OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 14

This proceeding was instituted upon a petition filed with the Bituminous Coal Division by District Board 14, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937. The petition requests the establishment of price classifications and minimum prices for the coals of certain code-member producers in District No. 14.

In accordance with an Order of the Director and after notice to all interested persons, a hearing in this matter was held on July 30, August 2, and August 6, before D. C. McCurtain, a duly designated Examiner of the Bituminous Coal Division, at a hearing room of the Division in Fort Smith, Arkansas, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses, and otherwise be heard. District No. 14 and the Keener Mining Company appeared.[1] The preparation and filing of a report by the Examiner were waived and the matter thereupon was submitted to the undersigned.

The petition of District Board No. 14 requests the revision and establishment of price classifications and minimum prices for the coals, both truck and rail shipments, of the Looper Coal Company (Mine Index 68) and, for truck shipments only, of the Bokoshe Coal Company (Mine Index 209) in District 14.[2] The petition further requests that the minimum prices established by the Director on January 31, 1941, 6 F. R. 924, for the James N. Ford Coal Company's Mine No. 1, (Mine Index 210) be deleted, and that the presently effective minimum prices be changed, for both truck and rail shipments, as follows: "F" or $3.35 in Size Group No. 3, "B" or $1.35 in Size Group No. 14, and "Q" or $2.70 in Size Group No. 18.

It appears from the uncontroverted testimony of the witnesses for the petitioner that the requested classifications and minimum prices conform with the effective prices heretofore established for comparable coals in District No. 14.[3] It is shown that the requested minimum prices are just and equitable and are in no way prejudicial or preferential as between districts. The evidence further

[1] The Keener Mining Company withdrew their petition of intervention at the hearing.

[2] The Schedules of Effective Minimum Prices for District 14 for Truck Shipment classify the coals of this mine as solid shot. Establishment of the machine cut classification herein proposed would require elimination of the solid shot classifications.

At the hearing on August 2, 1941, District Board 14 entered a motion to dismiss the petition with respect to the Paul Rees Coal Company (Mine Index No. 146), Evans Coal Company (Mine Index No. 66), and the Triple C Coal Company (Mine Index No. 188). The R. A. Young & Son Coal Company (Mine Index No. 122), Buck Creek Coal Mining Company (Mine Index No. 126) and the Hetherington Bros. Coal Company (Mine Index No. 48) were dismissed by an Order of the Director.

[3] Mines located in District 14, Sub-district 5, producing coal similar to the Looper Mine are as follows: Bussey (Mine Index No. 304), Sam Brown (Mine Index No. 302), Farley and Daffron (Mine Index No. 307), William E. Jones, (Mine Index No. 321), John Turner Coal Co. (Mine Index No. 112), etc.: the mines similar to the Bokoshe Mine are the Banner Coal Company (Mine Index No. 4), and the Premium Coal Co. (Mine Index No. 86) located in District 14, Sub-district 7.

indicates that the classifications and minimum prices requested by the petitioner will, if adopted, reflect the true values of the coals to which they apply and will preserve fair competitive opportunities for the producers thereof, as well as other local producers competing with them.

It further appears from the record that the minimum prices for the James N. Ford Coal Company, Mine No. 1 (Mine Index 210), established pursuant to the Order of the Director dated January 31, 1941, should be deleted from the Schedule of Effective Minimum Prices for District No. 14 for Truck Shipments, since minimum prices were formerly established for this mine when it was classified as the John Henry Mine (Mine Index 102). The testimony submitted clearly shows that the establishment of minimum prices by the Director in this docket for Mine Index No. 210 was in error. Since Mine Index No. 102 is now owned by James N. Ford Coal Company, the Schedule should so indicate but the prices heretofore established for the coals of that mine shall remain as the effective prices.

The requested classifications at the present time are fair and reasonable and are based on the quality and character of the coal, its market acceptability, and will, if approved, maintain fair competitive opportunities.

Upon the basis of the evidence, I find and conclude:

(1) That the classifications and minimum prices shown in the Supplements hereto attached for the coals specified therein, are proper and should be established; that said classifications and minimum prices are in proper relation to those established for analogous and comparable coals in District No. 14; (2) that the minimum prices for the James N. Ford Coal Company, Mine No. 1 (Mine Index 210), established pursuant to the Order of the Director dated January 31, 1941, should be deleted from the Schedules of Effective Minimum Prices for District No. 14 for Truck Shipments; (3) that such amendment of the price schedule for District No. 14 is necessary in order to effectuate the purposes of section 4 II (a) and section 4 II (b) of the Act and to comply in all respects with the standards thereof.

Now, therefore, it is ordered, That, commencing forthwith, § 334.5 (*Alphabetical list of code members*) is amended by adding thereto Supplement R, and § 334.24 (*General prices for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That, the minimum prices and mine index number for the James N. Ford Coal Company, Mine No. 1, (Mine Index No. 210) heretofore established in Docket A–409 by an Order of the Director dated January 31, 1941 be and they hereby are deleted from the Schedules of Effective Minimum Prices for District No. 14 for Truck Shipments.

Dated: November 10, 1941.

[SEAL] H. A. GRAY,
Director.

FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 334, Minimum Price Schedule for District No. 14 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 334.5 *Alphabetical list of code members*—Supplement R

Mine index No.	Code member	Mine name	Production group No.	Shipping point	Railroad	Freight origin group No.	Price classifications by size group																	
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
68	Looper Coal Company	Looper	5	Huntington, Ark.	SL&SF	16	-----	-----	(*)	-----	-----	-----	-----	-----	-----	-----	K	-----	-----	(*)	B	-----	-----	(*)	-----	-----

*Minimum prices have been established for these sizes.

FOR TRUCK SHIPMENTS

§ 334.24 *General prices for shipment into all market areas*—Supplement T

Mine index No.	Code member	Mine name	Production group No.	County	Prices and size group Nos.																			
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
209	Bokoshe Coal Company (Chester R. Oglesby).**	Bokoshe Coal Co. No. 1	7	LeFlore, Oklahoma	-----	-----	-----	405	-----	405	395	395	380	330	315	-----	200	135	115	105	185	315	-----	-----
68	Looper Coal Company	Looper	5	Sebastian, Arkansas	-----	-----	(*)	-----	-----	-----	-----	-----	-----	-----	305	-----	-----	(*)	115	-----	-----	(*)	-----	-----

*Minimum prices have been established for these sizes.
**Price classification has been established for rail shipments in Docket A–759.

[F. R. Doc. 41–9012; Filed, December 1, 1941; 11:15 a. m.]

[Docket No. A-928, Part II]

PART 334—MINIMUM PRICE SCHEDULE, DISTRICT NO. 14

FINDINGS OF FACT, CONCLUSIONS OF LAW, MEMORANDUM OPINION AND ORDER GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 14 FOR THE REVISION OF THE EFFECTIVE MINIMUM PRICES FOR THE COALS OF THE KISTLER MINE (MINE INDEX NO. 203) IN SIZE GROUPS 4 AND 18, AND FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE BIG VEIN COAL COMPANY (MINE INDEX NO. 520) IN SIZE GROUPS 6, 7, 8 AND 10

An original petition, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, was filed in Docket No. A-928 on June 20, 1941, by District Board 14, requesting the establishment, both temporary and permanent, of price classifications and minimum prices for the coals of certain mines in District 14.

An Order in Docket No. A-928, issued July 28, 1941, 6 F.R. 3944, by the Acting Director, granted temporary relief and conditionally provided for final relief in accordance with the price classifications and minimum prices set forth in Supplement R and Supplement T annexed thereto and made a part thereof. No relief was granted in this Order for the coals of the Kistler Mine (Mine Index No. 203) in Size Groups 4, 14, and 18, nor for the coals of the Big Vein Coal Company (Mine Index No. 520) in Size Groups 6, 7, 8, and 10.

On the same day, 6 F.R. 3814, the Acting Director issued a Memorandum Opinion and Order Granting Temporary Relief, Severing Docket No. A-928, Part II from Docket No. A-928, and Notice of and Order for Hearing in Docket No. A-928, Part II in which, for the reasons stated therein, temporary relief was granted as follows: Price classifications "O" and "G" were established in Size Groups 6 and 10, respectively, for the coals of the Big Vein Coal Company Mine (Mine Index No. 520) for all shipments except truck and minimum prices of 375 and 370 cents per net ton in Size Groups 6 and 10, respectively, were established for such coals for truck shipments. It was further ordered that the portion of Docket No. A-928 relating to the coals of Kistler Mine (Mine Index No. 203) in Size Groups 4 and 18,[1] and the coals of Big Vein Coal Company Mine (Mine Index No. 520) in Size Groups 6, 7, 8, and 10, be severed from the remainder of Docket No. A-928 and designated as Docket No. A-928, Part II, and that a hearing in this matter be held on August 6, 1941, at a hearing room of the Division in Fort Smith, Arkansas.

A hearing was held in Docket No. A-928, Part II before D. C. McCurtain, a duly designated Examiner of the Division, at the time and place above mentioned, at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard.

The preparation and filing of a report by the Examiner was waived.

At the hearing, counsel for District Board 14 stated that the Board had discovered certain errors and omissions in its original petition in Docket No. A-928, in regard to its recommendations as to the coals of the Kistler Mine, and asked leave to file a written amendment to its petition so as to request a classification of "K" instead of "M" in Size Groups 7 and 8, and classifications of "D" in Size Group 13 and "A" in Size Group 17 for shipment by rail. Petitioner's request was granted and testimony admitted in this hearing as to the amendments sought to be made in Docket No. A-928. On August 14, 1941, a written amendment in Docket No. A-928, Part II was filed with the Division.

It is true that all of the amendments sought in respect to the coals of the Kistler Mine, except those for Size Groups 4 and 18, were not covered in the Order setting a hearing on Docket No. A-928, Part II. However, since leave to amend was granted by the Examiner and the introduction of evidence at the hearing in support thereof was allowed, without objection being made, and it appears from the record that no one will be injured thereby, I will not rule that the departure from orthodox procedural requirements here disclosed is sufficient to bar the granting of relief in this case. Nevertheless, the petitioner is cautioned to prepare and prosecute any proceeding it may have before the Division in the future with more care.

The petitioner's written amendment in respect to the Kistler Mine, requests price classification of "L" in Size Group 9 for rail shipments and a minimum price of 380 cents for Size Group 9 for truck shipments. Neither of these are included in the original petition, and no reference thereto appears in the transcript of the hearing. There is no evidence in the record to support the necessity, in Size Group 9, for either the price classification "L" or the minimum price of 380 cents, therefore the requests as to these will not be allowed.

The evidence shows that due to a change from Solid Shot to Machine Cut operation at the Kistler Mine, the existing price classification "D" under Size Group 3 for rail shipments and minimum price of 370 cents under Size Group 3 for truck shipments, should be withdrawn.

The petitioner introduced evidence at the hearing to the effect that the prices proposed by it for the coals produced at the Kistler Mine (Mine Index No. 203) and the Big Vein Coal Company Mine (Mine Index No. 520) were fair and reasonable, based on the quality and character of the coal, its market acceptability, and with due regard to preserving fair competitive opportunities as between producers and would not be prejudicial as against any other district. There was no evidence to the contrary.

Based upon the foregoing facts and for the reasons stated, relief will be granted as to all the proposed price classifications and minimum prices except price classification "L" in Size Group 9 for rail shipments and the minimum price of 380 cents for Size Group 9 for truck shipments for the Kistler Mine.

Now, therefore, it is ordered, That commencing forthwith, § 334.5 (*Alphabetical list of code members*) is amended by adding thereto Supplement R–I, § 334.6 (*General prices*) is amended by adding thereto Supplement R–II, and § 334.24 (*General prices for shipment into all market areas*) is amended by adding thereto Supplement T, which supplements are hereinafter set forth and hereby made a part hereof.

It is further ordered, That price classification "D" under Size Group 3 for rail shipments, and the minimum price of 370 cents for Size Group 3 for truck shipments, for the coals of the Kistler Mine (Mine Index No. 203), be and they are hereby withdrawn from the Schedule of Effective Minimum Prices for District No. 14 for All Shipments Except Truck and for Truck Shipments.

It is further ordered, That in all other respects the relief requested herein be and it hereby is denied.

Dated: November 7, 1941.

[SEAL] H. A. GRAY,
Director.

[1] The petition proposed the same price classification and minimum prices for Size Group 14 coals as those already established for coals in that Size Group.

FINAL EFFECTIVE MINIMUM PRICES FOR DISTRICT NO. 14

NOTE: The material contained in these supplements is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Part 334, Minimum Price Schedule for District No. 14 and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

§ 334.5 *Alphabetical list of code members*—Supplement R–I

Mine index No.	Code member	Mine name	Production group No.	Shipping point	Railroad	Freight origin group No.	Price classification by size group																			
							1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
520	Big Vein Coal Co. (E. C. Farris).	Big Vein Coal Co	1	Hartman, Ark	MP	33	------	------	(*)	------	------	O	O	O	------	G	------	------	------	(*)	(*)	(*)	------	(*)	------	------
203	Kistler Coal Company	Rock Island	6	Excelsior, Ark	MV	18	------	------	------	J	------	(*)	K	K	------	------	(*)	------	D	(*)	(*)	(*)	A	O	------	------

*Minimum price classifications established for these sizes. No changes requested.

§ 334.6 *General prices*—Supplement R–II

[Subject to price instructions and exceptions shown in § 334.1]

Price classification	Size groups																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
O	----	----	----	----	----	375	375	375	----	----	----	----	----	----	----	----	----	----	----	----
O	----	----	----	----	----	340	340	340	----	----	----	----	----	----	----	----	----	----	----	----

FOR TRUCK SHIPMENTS

§ 334.24 *General prices for shipment into all market areas*—Supplement T

Code member index	Mine index No.	Mine	County	Subdistrict No.	Prices and size group Nos.																			
					1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Big Vein Coal Co. (E. C. Farris)	520	Big Vein Coal Co	Johnson, Ark	1	------	------	(*)	------	------	375	375	375	------	370	------	------	------	(*)	(*)	(*)	------	(*)	------	------
Kistler Coal Company	203	Rock Island	Le Flore, Okla	6	------	------	------	405	------	(*)	405	405	------	------	(*)	------	200	(*)	(*)	(*)	185	315	------	------

*Minimum prices established for these sizes. No changes requested.

[F. R. Doc. 41–9011; Filed, December 1, 1941; 11:13 a. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT

SUBCHAPTER B—PRIORITIES DIVISION

PART 956—MATERIALS ENTERING INTO THE CONSTRUCTION OF SPECIFIED LOCOMOTIVES

Extension and Amendment of Preference Rating Order No. P–20

It is hereby ordered, That § 956.1 (*Preference rating order No. P–20*), issued July 21, 1941,[1] and all Preference Rating Certificates issued thereunder, shall continue in effect until December 31, 1941, unless sooner revoked by the Office of Production Management.

Section 956.1 (f) (2) is hereby amended to read as follows:

§ 956.1 *Preference rating order P–20.*

* * * * *

(f) *Reports and information.*

* * * * *

(2) The Producer, and each Supplier who applies the preference rating, shall file reports containing such information concerning the matters specified in paragraph (e) (1) of this section, and concerning any other pertinent matters, with the Automotive, Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management, as shall from time to time be required by said Branch. Until further order, such information shall be furnished to the Automotive, Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management by the Producer and by each such Supplier, to the extent, in the form and at the time specified in Exhibit A attached hereto.[2]

Section 956.1 (f) (3) is hereby amended to read as follows:

(3) The Producer and each Supplier who applies the preference rating, shall submit from time to time to an audit and inspection by representatives of the Office of Production Management concerning the matters specified in paragraph (e) (1) of this section. (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3, March 8, 1941, 6 F.R. 1596, as amended Sept. 12, 1941, 6 F.R. 4865; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public, No. 671, 76th Congress, Third Session, as amended by Public, No. 89, 77th Congress, First Session; Sec. 9, Public, No. 783, 76th Congress, Third Session)

Issued this 29th day of November 1941.

DONALD M. NELSON,
Director of Priorities.

[F. R. Doc. 41–9034; Filed, December 1, 1941; 2:45 p. m.]

[1] 6 F.R. 3646.
[2] Not filed as part of the original document.

PART 957—MATERIAL ENTERING INTO THE REPAIR AND REBUILDING OF STEAM, ELECTRIC, OR DIESEL LOCOMOTIVES WHETHER FOR RAILROAD, MINING, OR INDUSTRIAL USE

Extension and Amendment of Preference Rating Order No. P–21

It is hereby ordered, That § 957.1, (*Preference rating order No. P–21*), issued July 21, 1941,[1] and all Preference Rating Certificates issued thereunder, shall continue in effect until December 31, 1941 unless sooner revoked by the Office of Production Management.

Section 957.1 (f) (2), is hereby amended to read as follows:

§ 957.1 *Preference rating order P–21.*

* * * * *

(f) *Reports and information.*

* * * * *

(2) The Repairer, and each Supplier who applies the preference rating, shall file reports containing such information concerning the matters specified in paragraph (f) (1) of this section, and concerning any other pertinent matters, with the Automotive, Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management, as shall from time to time be required by said Branch. Until further order, such information shall be furnished to the Automotive, Transportation and Farm Equipment Branch, Division of Civilian Supply, Office of Production Management by the Repairer and by each such Supplier, to the extent, in the form and at the times specified in Exhibit A attached hereto.[2] (P.D. Reg. 1, Aug. 27, 1941, 6 F.R. 4489; O.P.M. Reg. 3, March 8, 1941, 6 F.R. 1596, as amended Sept. 12, 1941, 6 F.R. 4865; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; E.O. 8875, Aug. 28, 1941, 6 F.R. 4483; sec. 2 (a), Public, No. 671, 76th Congress, Third Session, as amended by Public, No. 89, 77th Congress, First Session; Sec. 9, Public, No. 783, 76th Congress, Third Session)

Issued this 29th day of November, 1941.

DONALD M. NELSON,
Director of Priorities.

[F. R. Doc. 41–9035; Filed, December 1, 1941; 2:45 p. m.]

[1] 6 F.R. 3647.

CHAPTER XI—OFFICE OF PRICE ADMINISTRATION

PART 1306—IRON AND STEEL

PRICE SCHEDULE NO. 46—RELAYING RAIL

Relaying rails are used extensively in armament plants, as well as in the essential industrial and mining establishments provided for in the Defense Program. The prices of relaying rails have increased sharply since the beginning of 1941. In many instances, the price of relaying rail has been as high or higher than that of new rail. After a thorough investigation by the Office of Price Administration and numerous conferences with all branches of the relaying rail industry, I find that the maximum prices prescribed herein constitute a fair and equitable limitation on prices for relaying rail and are necessary to assure an adequate and even flow of relaying rail into defense channels.

Accordingly, under the authority vested in me by Executive Order No. 8734, it is hereby directed that:

§ 1306.251 *Maximum prices for relaying rail.* On and after December 2, 1941, regardless of the terms of any contract of sale or purchase, or other commitment, except as provided in § 1306.254 hereof, no person shall sell, offer to sell, deliver or transfer relaying rail, and no person shall buy, offer to buy, or accept delivery of relaying rail, at prices higher than the maximum prices set forth in Appendix A hereof, incorporated herein as § 1306.260.*

*§§ 1306.251 to 1306.260, inclusive, issued pursuant to authority contained in Executive Orders Nos. 8734, 8875, 6 F.R. 1917, 4483.

§ 1306.252 *Less than maximum prices.* Lower prices than those set forth in Appendix A may be charged, demanded, paid or offered.*

§ 1306.253 *Evasion.* The price limitations set forth in this Schedule shall not be evaded whether by direct or indirect methods in connection with a purchase, sale, delivery or transfer of relaying rail, alone or in conjunction with any other material, or by way of any commission, service, transportation, or other charge, or discount, premium, or other privilege, or by tying-agreement or other trade understanding, or otherwise.*

§ 1306.254 *Permission to carry out contracts entered into prior to November 1, 1941.* Any person who, prior to November 1, 1941, has entered into a contract of sale or other firm commitment calling for the delivery of or transfer after that date, of relaying rail, at prices higher than the maximum prices established by this Schedule, may make application to the Office of Price Administration on Form 146:1 provided for that purpose, for permission to carry out such contract or commitment at the contract price. Such permission will be granted only when necessary to protect the applicant against loss in the disposition of (a) inventory acquired prior to November 1, 1941, at prices higher than the established maximum prices and held by the applicant on that date, and (b) acquired by the applicant pursuant to permission granted by the Office of Price Administration to such applicant and his vendor under this Section. Such application shall be filed with the Office of Price Administration on or before December 22, 1941.*

§ 1306.255 *Records and reports.* (a) Every person making purchases or sales of relaying rails after 1941, shall keep for inspection by the Office of Price Administration for a period of not less than one year, complete and accurate records of (1) each such purchase or sale, showing the date thereof, the name and address of the buyer or the seller, the shipping point price paid or received, and the quantity of each kind or grade purchased or sold, and (2) the quantity of relaying rail (i) on hand, and (ii) on order, as of the close of each calendar month.

Persons affected by this Schedule shall submit such reports to the Office of Price Administration as it may, from time to time, require.

(b) *Purchases of relaying rail in excess of 100 gross tons.* Every person other than the ultimate consumer, making a purchase of used rail, in quantities in excess of 100 gross tons, which includes relaying rail covered by paragraph (b) of § 1306.260 below, not later than ten days following the purchase shall file with the Office of Price Administration either (1) a certificate from an established, independent inspection bureau, or (2) an affidavit by such person, stating the estimated division of such rail among relaying, rerolling, and scrap rails, as well as such further documents as may be required by the Office of Price Administration: *Provided,* That the rails so purchased shall be subject to any inspection and classification as to quality which may be made by the Office of Price Administration.

(c) *Sales of relaying rail of 25 gross tons or more.* Every seller making a sale to a consumer of relaying rails in quantities of 25 tons or more, shall file with the Office of Price Administration, within 10 days after such sale, either (1) a certificate from an established, independent inspection bureau certifying that such rails are of relaying quality, or (2) an affidavit from the consumer stating that such rails are to be used for relaying purposes, the quantity, source, shipping point and delivered price of the shipment.*

§ 1306.256 *Enforcement.* In the event of refusal or failure to abide by the price limitations, record requirements, or other provisions of this Schedule, or in the event of any evasion or attempt to evade the price limitations or other provisions of this Schedule, the Office of Price Administration will make every effort to assure (a) that the Congress and the public are fully informed thereof; (b) that the powers of Government, both state and federal, are fully exerted in order to protect the public interest and the interests of those persons who comply with this Schedule; (c) that full advantage will be taken of the cooperation of the various political subdivisions of state, county, and local governments by calling to the attention of the proper authorities, failures to comply with this Schedule, and (d) that the procurement services of the Government are requested to refrain from selling to or purchasing from those persons who fail to comply with this Schedule. Persons who have evidence of the offer, receipt, demand or payment of prices higher than the maximum prices, or of any evasion or effort to evade the provisions hereof, or of speculation, or manipulation of prices of relaying rail, or of the hoarding or accumulating of unnecessary inventories thereof, are urged to communicate with the Office of Price Administration.*

§ 1306.257 *Modification of the schedule.* Persons complaining of hardship or inequity in the operation of this Schedule may apply to the Office of Price Administration for approval of any modification thereof or exception therefrom: *Provided,* That no application under this section will be considered unless filed by a person complying with this Schedule and all other schedules issued by the Office of Price Administration.*

§ 1306.258 *Definitions.* When used in this Schedule, the term:

(a) "Person" means an individual, partnership, association, corporation, or other business entity;

(b) "Shipping point" means on board the means of transportation to the buyer, whether truck, freight car, barge, or ship.*

§ 1306.259 *Effective date of the schedule.* This Schedule shall become effective December 2, 1941.*

§ 1306.260 *Appendix A—Maximum prices for relaying rail.*—(a) *Maximum prices for relaying rail originating from Class I railroads.* The maximum price of relaying rail, weighing 35 lbs. or more per yard, originating from Class I railroads and Class I switching or terminal companies, except when such rail is sold in track, shall be $28.00 per gross ton f. o. b. any station on the selling railroad at the option of the buyer: *Provided,* That when such rail is purchased by dealers or jobbers, such dealers or jobbers may sell, except as provided in paragraph (c) below, such rail at a maximum price of $30.00 per gross ton f. o. b. shipping point.

(b) *Maximum price for other relaying rail.* The maximum price, f. o. b. shipping point, for relaying rail weighing 35 lbs. or more per yard, other than rail covered by paragraph (a) above and paragraph (c) below, shall be $30.00 per gross ton minus the lowest railroad freight charge for transporting such rail from the shipping point to the basing point nearest freightwise to the shipping point: *Provided,* That the shipping point price need in no case be less than $22.00 per gross ton.

The following cities shall be deemed basing points:

Boston, Mass.	Minneapolis, Minn.
Philadelphia, Pa.	St. Louis, Mo.
Buffalo, N. Y.	Kansas City, Mo.
Pittsburgh, Pa.	Birmingham, Ala.
Cleveland, Ohio.	Houston, Tex.
Cincinnati, Ohio.	Los Angeles, Calif.
Detroit, Mich.	San Francisco, Calif.
Chicago, Ill.	Portland, Oreg.
Savannah, Ga.	Seattle, Wash.
Norfolk, Va.	

(c) *Maximum prices for relaying rail sold from warehouses.* (1) The maximum price of relaying rail weighing 35 lbs. or more per yard, which has been shipped to recognized relaying rail warehouses equipped with machinery for reconditioning, and there unloaded, when sold from such warehouse shall be $1.60 cwt. f. o. b. warehouse for quantities of 25 gross tons and over; $2.00 cwt. f. o. b. warehouse for quantities of 5 to less than 25 gross tons; and $2.25 cwt. f. o. b. warehouse for quantities less than 5 gross tons.

(2) Any person desiring to sell relaying rail pursuant to paragraph (c) herein must file, on or before December 10, 1941, with the Office of Price Administration, a statement indicating that he operates a recognized warehouse equipped with machinery for reconditioning. A storage point or yard, not customarily operated as a warehouse, is not a warehouse within the meaning of this paragraph.

Issued this 2d day of December, 1941.

LEON HENDERSON,
Administrator.

[F. R. Doc. 41-9043; Filed, December 2, 1941; 10:52 a. m.]

Notices

WAR DEPARTMENT.

[Contract No. W ORD 458[1] Supp. 4]

SUMMARY OF SUPPLEMENTAL CONTRACT TO COST-PLUS-A-FIXED-FEE CONSTRUCTION, EQUIPMENT AND OPERATION CONTRACT

CONTRACTOR: E. I. DU PONT DE NEMOURS & COMPANY, WILMINGTON, DELAWARE

Fixed-fee for construction: Additional, $15,443.00.

Fixed-fee for optional operation: * * * per pound of powder manufactured in excess of * * * pounds.

Contract for: Supplemental Contract to increase the powder capacity of the plant to be constructed and operated under Contract No. W-ORD-458, as amended; to change the initial quantities in order to incorporate the increases in quantities resulting from the exercise of the Options provided in Supplement No. 2 to Contract No. W-ORD-458; to alter * * * cannon powder line to provide for the production of additional small arms powder; to provide the necessary buildings and equipment for nitrating sufficient wood pulp for * * * cannon powder lines; to provide in Contract No. W-ORD-458, as amended, a "changes" clause giving the necessary authority to the Government to make certain changes within the scope of said contract; and to provide for certain optional operation.

Place: Charlestown, Indiana.

Estimated cost of construction under Article I: Additional, $2,051,000.00.

Estimated cost of operation in excess of * * * pounds of powder (optional): $ * * * per pound.

[1] 5 F.R. 4322.

The equipment, supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of the same:

ORD 7675 P99 A 0141–02
ORD 7676 P99 A 0141–02
ORD 6795 P99 A 1005–02

This supplemental contract,[2] entered into this 7th day of November 1941.

There is now in force between the parties hereto a certain contract, identified by the Government as "Contract No. W–ORD–458" which provides for the building, equipping and operating of a nitrocellulose smokeless powder plant by the Contractor for the Government at Charlestown, Indiana, said contract bearing date of July 17, 1940, and being hereinafter sometimes referred to as the "Original Contract".

Said Original Contract has been supplemented and amended by supplemental contracts dated October 9, 1940, December 28, 1940, and January 28, 1941, identified as Contracts W–ORD–458, Supplements 1, 2, and 3, respectively.

The Government by letter dated June 25, 1941 exercised the options reserved in paragraphs (b) and (c) of Article II of the Original Contract as amended by Supplement No. 2.

The Government now desires to change the initial quantities in order to incorporate the increases in quantities resulting from the exercise of such options.

B. It is estimated that the increase in the cost of the design and construction work covered by Article I of the Original Contract, as amended, on account of the additional work provided for in this fourth supplemental contract, will be two million fifty-one thousand dollars ($2,051,000.00). Paragraph (b), Article I is, therefore, changed to read:

It is estimated that the total cost of the construction work aforesaid will be approximately seventy-five million four hundred twenty-one thousand dollars ($75,421,000.00) (not including the cost of acquiring land, nor the cost of equipment furnished by the Government, nor the Contractor's compensation).

K. Except as herein provided, the terms and conditions of the Original Contract, as amended, shall continue in full force and effect and shall apply with equal force to the work added by this supplemental contract.

This contract is authorized by the following laws: Act of July 2, 1940 (Public No. 703, 76th Cong.) and the Act of June 30, 1941 (Public No. 139, 77th Cong.)

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41–9038; Filed, December 2, 1941; 9:31 a. m.]

[2] Approved by the Under Secretary of War November 14, 1941.

[Contract No. W 303 ord–972]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: THE B. F. GOODRICH COMPANY, AKRON, OHIO

Contract for: * * * Track for Half Track Vehicles.

Amount: $3,168,876.00.

Place: Cleveland Ordnance District, 1450 Terminal Tower, Cleveland, Ohio.

The supplies to be obtained by this instrument are authorized by, are for the purposes set forth in, and are chargeable to Procurement Authority ORD 15231 P 11–30 A (1005) .105–01, the available balance of which is sufficient to cover cost of same.

This contract,[1] entered into this twentieth day of September 1941.

Scope of this contract. The Contractor shall furnish and deliver * * * Tracks for Half Track Vehicles for the consideration stated three million one hundred sixty-eight thousand eight hundred seventy-six dollars and no cents ($3,168,876.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Payments will be made on partial deliveries accepted by the Government when requested by the contractor, whenever such payments would equal or exceed either $1,000 or 50% of the total amount of the contract.

Quantities. The Government reserves the right to increase the quantity on this contract by as much as * * *% and at the unit price specified in Article 1, such option to be exercised within * * * days from date of this contract.

Termination for convenience of the government. Should conditions arise which, in the opinion of the head of the Department, make it necessary or advisable in the interest of the Government that work be discontinued under this contract, the Government may, by a notice in writing from the Contracting Officer to the Contractor of its intention to terminate under this Article, terminate this contract in whole or in part.

This contract is authorized by the Act of July 2, 1940, Public, 703, 76th Congress.

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41–9039; Filed, December 2, 1941; 9:31 a. m.]

[1] Approved by the Chief of Ordnance November 12, 1941.

[Contract No. W 294 ord–769]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: INTERNATIONAL FLARE-SIGNAL DIVISION OF THE KILGORE MANUFACTURING COMPANY, TIPP CITY, OHIO

Contract for: * * * Parachutes * * *.

Amount: $1,435,712.06.

Place: Cincinnati Ordnance District, 1229 The Enquirer Bldg., Cincinnati, Ohio.

The material to be obtained by this instrument is authorized by, is for the purpose set forth in, and is chargeable to the Procurement Authority ORD 15,540 P11–02A (1005).105–01, the available balance of which is sufficient to cover same.

This contract,[1] entered into this 15th day of July 1941.

ARTICLE 1. *Scope of this contract.* The Contractor shall furnish and deliver * * * Parachutes * * * for the consideration stated of one million, four hundred thirty-five thousand, seven hundred twelve dollars and six cents ($1,435,712.06) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

ART. 2. *Changes.* Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

ART. 5. *Delays—Damages.* If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

ART. 8. *Payments.* The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided.

[1] Approved by the Chief of Ordnance, November 10, 1941.

Payments will be made on partial deliveries accepted by the Government, when requested by the contractor, whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

ART. 17. *Quantities.* The Government reserves the right to increase the quantity on this contract by as much as * * *% and at the unit price specified in Article 1, such option to be exercised within * * * days from date of this contract.

ART. 21. *Termination when contractor not in default.* This contract is subject to termination by the Government at any time as its interests may require.

This contract is authorized by the Act of July 2, 1940 (Public No. 703—76th Congress) as continued in effect by Section 9, Public No. 139—77th Congress.

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-9040; Filed, December 2, 1941; 9:32 a. m.]

[Serial Nos. 4632, 7-16-41; 4784, 8-21-41]

SUMMARY OF CHANGE ORDERS TO EMERGENCY PLANT FACILITIES CONTRACT

CONTRACTOR: FORD MOTOR COMPANY, DEARBORN, MICHIGAN

Change No. 1[1] to Contract No. W 535 ac-17072.[2] Dated: December 23, 1940.

Subject: Additional Items and Increased Costs of Facilities Provided in Emergency Plant Facilities Contract.

Affecting: Contract No. W 535 ac-17072.

The United States of America, hereinafter called the Government and Ford Motor Company, hereinafter called the Contractor, have executed Contract W 535 ac-17072, with reference to the acquisition, construction and installation by the Contractor of certain emergency plant facilities.

Paragraph 2 of Article I of the contract provides substantially that the Contractor may at any time make changes in or additions to the drawings and specifications, and the machinery and equipment to be acquired.

The Government has found it necessary to increase the aggregate amount provided in the contract by the sum of $1,954,219.00 (one million, nine hundred fifty-four thousand, two hundred nineteen dollars), which sum is composed of the various items of increase and the additional necessary items not heretofore included and for the various purposes as set forth in Supplemental Appendix A hereto. The additional interest allowable, in respect to the above increase, under Article I, section 5 of the said contract is $3,250.00 (three thousand, two hundred fifty dollars). The aforesaid costs are deemed by the Contracting Officer under the aforesaid contract No. W 535 ac-17072 to be reasonable and necessary for the performance of said contract.

It is agreed that said contract be amended in the following respects:

1. That the Contractor hereby agrees to use its best efforts to acquire, construct and install said emergency plant facilities included in Appendix A to the original contract and Supplemental Appendix A hereto for a sum not to exceed the estimated cost of the emergency plant facilities set forth in Article I, section 1 of said original contract as increased by the additional estimated costs set forth in Supplemental Appendix A hereto, which is made a part hereof, all in accordance with the plans and specifications set forth in the original contract with Appendix A thereto and this Change Order with Supplemental Appendix A hereto.

2. That the total costs of the emergency plant facilities of the complete addition to an existing plant described in Schedules I-A to IV-A, inclusive, of Appendix A as estimated in Article I, section 1 of the contract be changed to read $8,573,884.00 (eight million, five hundred seventy-three thousand, eight hundred eighty-four dollars); that the total costs of the emergency plant facilities of the complete addition to an existing plant described in Schedules I-C to IV-C, inclusive, of Appendix A as estimated in Article I, section 1 of the contract be changed to read $325,435.00 (three hundred twenty-five thousand, four hundred thirty-five dollars); that the total costs of the emergency plant facilities of the complete addition to an existing Plant described in Schedules I-D to IV-D, inclusive of Appendix A as estimated in Article I, section 1 of the contract be changed to read $773,-850.00 (seven hundred seventy-three thousand, eight hundred fifty dollars); and that the maximum costs of the emergency plant facilities, including all four complete additions to an existing plant described in Schedules I-A to IV-A, inclusive, I-B to IV-B, inclusive, I-C to IV-C, inclusive, and I-D to IV-D, inclusive, of Appendix A, and stated in Article II, section 1 of the contract be changed to read $23,666,339.43 (twenty-three million, six hundred sixty-six thousand, three hundred thirty-nine and 43/100 dollars).

Procurement Authorities:

AC 78 P 1-2030 A 0141.116-02
AC 78 P 1-3052 A 0141-02
AC 78 P 1-3100 A 0141-02
AC 78 P 1-3211 A 0141-02

Except as hereby amended, all the terms and conditions of the contract affected shall remain unmodified and in full force and effect and shall also apply in carrying out the provisions of this Change Order.

Change Order No. 2

Change No. 2[3] to Contract No. W 535 ac-17072.[2]

Dated: December 23, 1940.

Subject: Additional Items in Emergency Plant Facilities Contract.

Affecting: Contract No. W 535 ac-17072.

The United States of America, hereinafter called the Government, and Ford Motor Company, a corporation organized and existing under the laws of the State of Delaware, hereinafter called the Contractor, have executed Contract No. W 535 ac-17072, and Change Order, Serial No. 4632, being Change No. 1 to said Contract, with reference to the acquisition, construction and installation by the Contractor of certain emergency plant facilities.

Paragraph 2 of Article I of the contract provides substantially that the Contractor may at any time make changes in or additions to the drawings and specifications, and the machinery and equipment to be acquired.

The Government has found it necessary to increase the aggregate amount provided for in the contract, as amended by Change Order No. 1 thereto, by the sum of $4,081,546.87 (four million, eighty-one thousand, five hundred forty-six and 87/100 dollars), which sum is composed of the costs of the various items and for the various purposes as set forth in Appendix B hereto. The additional interest allowable, in respect to the above increase, under Article I, section 5 of the said contract is $40,815.00 (forty thousand, eight hundred fifteen dollars). The aforesaid costs are deemed by the Contracting Officer under the aforesaid contract No. W 535 ac-17072 to be reasonable and necessary for the performance of said contract.

The emergency plant facilities provided in said original contract, as amended by said Change Order No. 1 thereto, will be completed several months prior to the time the emergency plant facilities provided herein will be completed and, therefore, the Government and the Contractor are both desirous of considering the emergency plant facilities provided herein as a separate emergency facility and of including herein suitable provisions so that the contractor may file Final Cost Certificate A covering those emergency plant facilities provided in said original contract, as amended by Change Order No. 1 thereto, at the time of the completion of said facilities and the Government may start its payments on Government reimbursement for plant costs at that time, and that the Contractor may file Final Cost Certificate B covering those emergency plant facilities provided herein at the completion of said emergency plant facilities and the Government may start its payments on Government reimbursement for the plant costs for those facilities at that time.

In consideration of the premises and the mutual agreements herein contained and to provide for the further expediting of the emergency plant facili-

[1] Approved by the Under Secretary of War August 28, 1941.
[2] 6 F.R. 822.
[3] Approved by the Under Secretary of War, October 15, 1941.

ties and the efficient operation and production thereof, it is agreed that said contract be amended in the following respects:

1. That the Contractor hereby agrees to use its best efforts, to acquire, construct and install said emergency plant facilities included in Appendix A to the original contract, Supplemental Appendix A to Change Order No. 1 thereto and Appendix B hereto by a sum not to exceed the estimated cost of the emergency facilities set forth in Article I, section 1 of the said original contract as amended by Change Order No. 1 thereto and as increased by the additional estimated costs set forth in Appendix B hereto which is made a part hereof, all in accordance with the plans and specifications set forth in the original contract with Appendix A thereto, Change Order No. 1 with Supplemental Appendix A thereto and this Change Order with Appendix B hereto.

2. That the Contractor shall have the right, upon the terms and conditions of section 4 of Article I and consistent with all other provisions of said original contract, to file a Final Cost Certificate A covering those emergency plant facilities provided in said original contract, as amended by Change Order No. 1 thereto, at the time of the completion of said emergency plant facilities in order that the Government may start its payments on Government reimbursement for plant costs for those facilities, and the Contractor shall file its Final Cost Certificate B covering those emergency plant facilities provided herein at the time of the completion of said emergency plant facilities.

3. That in addition to the total cost of the emergency plant facilities of the four complete additions to an existing plant as set forth in Article I, section I, of the contract, as amended by Change Order No. 1 thereto, there is hereby added the sum of $4,081,546.87 (four million, eighty-one thousand, five hundred forty-six and 87/100 dollars) for an increase in one of the complete additions to an existing plant, described as Aircraft Engine Manufacturing Plant including Test Houses in Schedules I–A to IV–A, inclusive, of Appendix A to said contract, as amended, as set forth in Appendix B hereto, and the maximum cost as stated in Article II, section I of the contract, as amended by Change Order No. 1 thereto, is hereby changed to read $27,747,886.30 (twenty-seven million, seven hundred forty-seven thousand eight hundred eighty-six and 30/100 dollars).

FRANK W. BULLOCK,
Lt. Col., Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-9041; Filed, December 2, 1941; 9:34 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-1097]

IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 7 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 7

[Docket No. A-1097; Part II]

IN THE MATTER OF THE PETITION OF DISTRICT BOARD NO. 7 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF GASTON COAL COMPANY, GASTON NO. 2 MINE, MINE INDEX NO. 255, R. H. HAYES (HAYES COAL CO.) MEAD POCA. NO. 3 MINE, MINE INDEX NO. 265, AND I. R. THOMPSON, AMICK MINE, MINE INDEX NO. 508, CODE MEMBERS IN DISTRICT NO. 7 FOR ALL SHIPMENTS EXCEPT TRUCK

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1097 PART II FROM DOCKET NO. A-1097, ORDER GRANTING TEMPORARY RELIEF IN DOCKET NO. A-1097 PART II AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1097 PART II

The original petition in the above-entitled matter, which was filed pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requests the issuance of orders establishing temporary and permanent price classifications and minimum prices for the coals of certain mines in District No. 7.

As the Director found in an Order issued in Docket No. A-1097, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner except as to the establishment of permanent price classifications and minimum prices for the coals of Gaston Coal Company, Gaston No. 2 Mine, Mine Index No. 255, R. H. Hayes (Hayes Coal Co.), Mead Poca. No. 3 Mine, Mine Index No. 265, and I. R. Thompson, Amick Mine, Mine Index No. 508, Code Members in District No. 7, for All Shipments Except Truck. While it appears that temporary relief should be granted for the coals of the said mines, for All Shipments Except Truck, the Director is of the opinion that the original petitioner did not set forth sufficient facts to warrant the establishment of permanent price classifications and minimum prices without a hearing.

Now, therefore, it is ordered, That the portion of Docket No. A-1097 relating to the coals of Gaston Coal Company, Gaston No. 2 Mine, Mine Index No. 255, R. H. Hayes (Hayes Coal Co.), Mead Poca. No. 3 Mine, Mine Index No. 265, and I. R. Thompson, Amick Mine, Mine Index No. 508, Code Members in District No. 7, for All Shipments Except Truck, be and the same hereby is, severed from the remainder of Docket No. A-1097 and designated as Docket No. A-1097, Part II.

It is further ordered, That a hearing in Docket No. A-1097 Part II under the applicable provisions of said Act and the rules of the Division be held on December 9, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGown or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 4, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 7 for the establishment of price classifications and minimum prices for the coals of Gaston Coal Company, Gaston No. 2 Mine, Mine Index No. 255, R. H. Hayes (Hayes Coal Co.), Mead Poca. No. 3 Mine, Mine Index No. 265, and I. R. Thompson, Amick Mine, Mine Index No. 508, Code Members in District No. 7 for All Shipments Except Truck.

It is further ordered, That, pending final disposition of Docket No. A-1097 Part II, temporary relief is granted as

follows: Commencing forthwith Price Schedule No. 1, for District No. 7 for All Shipments Except Truck is supplemented to include the price classifications and minimum prices set forth in the schedule market "Temporary Supplement," annexed hereto and hereby made a part hereof.

Notice is hereby given that all applications to stay, terminate or modify the temporary relief granted herein may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 14, 1941.

[SEAL] H. A. GRAY, *Director.*

TEMPORARY SUPPLEMENT

NOTE: The material contained in this temporary supplement is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and supplements thereto.

[Alphabetical list of code members having railway loading facilities, showing price classifications by size groups for all uses except as separately shown]

Mine index No.	Code member	Mine name	Subdistrict No.	Low volatile seam	Shipping point	Railroad	Freight origin group No.	Price classifications by size group Nos.									
								1	2	3	4	5	6	7	8	9	10
255	Gaston Coal Company	Gaston #2	5	Poca. 3	Alpoca, W. Va.	VGN	14	D	F	E	D	A	B	B	B	B	B
265	Hayes, R. H. (Hayes Coal Co.)	Mead Poca. #3	5	Poca. 3	Mullens, W. Va.	VGN	14	D	(†)	(†)	(†)	(†)	B	B	B	B	(†)
508	Thompson, I. R.	Amick	1	Fire Creek	Rainelle Jct., W. Va.	C&O-NYC	19	D	(†)	(†)	(†)	(†)	B	B	B	B	(†)

†Indicates no classifications effective for these size groups.

[F. R. Doc. 41-9005; Filed, December 1, 1941; 11:10 a. m.]

[Docket No. A-1101]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES IN DISTRICT NO. 1

[Docket No. A-1101; Part II]

PETITION OF DISTRICT BOARD NO. 1 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF THE HELMICK MINE, MINE INDEX NO. 927, JOHNSON NO. 1 MINE, MINE INDEX NO. 932, BEAVER NO. 1 MINE, MINE INDEX 666, BEAVER NO. 2 MINE, MINE INDEX NO. 3170, BEAVER NO. 3 MINE, MINE INDEX NO. 3171, MILLIRON MINE, MINE INDEX NO. 655, AND MILLIRON NO. 2 MINE, MINE INDEX NO. 3176, IN DISTRICT NO. 1

MEMORANDUM OPINION AND ORDER SEVERING DOCKET NO. A-1101 PART II FROM DOCKET NO. A-1101, ORDER GRANTING TEMPORARY RELIEF IN DOCKET NO. A-1101 PART II AND NOTICE OF AND ORDER FOR HEARING IN DOCKET NO. A-1101 PART II

The original petition in the above-entitled matter, which was filed with this Division, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, requests the issuance of orders establishing temporary and permanent price classifications and minimum prices for the coals of certain mines in District No. 1.

As the Director found in an Order issued in Docket No. A-1101, a reasonable showing of necessity has been made for the granting of the relief prayed for by petitioner except as to the establishment of permanent price classifications and minimum prices for the coals of the Helmick Mine, Mine Index No. 927, and Johnson No. 1 Mine, Mine Index No. 932, and for the mixing of the coals of Beaver Nos. 1, 2, and 3 Mines, Mine Index Nos. 666, 3170, and 3171, respectively, and for the mixing of the coals of Milliron and Milliron No. 2 Mines, Mine Index Nos. 655 and 3176, respectively, for all shipments except truck. With respect to the establishment of permanent price classifications and minimum prices, the Director is of the opinion that a hearing should be held in view of the circumstances involved.

The petition proposes that two shipping points be established for the Helmick Mine, Mine Index No. 927, and for the Johnson No. 1 Mine, Mine Index No. 932 for all shipments except truck. While it appears that an adequate showing of necessity has been made that temporary relief be granted establishing temporary price classifications and minimum prices for the coals of the above-named mines for all shipments except truck from one shipping point, it does not appear that the original petitioner has set forth sufficient facts to warrant the establishment of additional shipping points for the coals of these mines for all shipments except truck, without a hearing. The shiping points hereinafter temporarily established for the coals of such mines are those which appear to be the nearer to such mines and appropriate, therefore, for the granting of temporary relief.

The petition also proposes the establishment of price classifications and minimum prices for the mixing of the coals of Beaver Nos. 1, 2, and 3 Mines, Mine Index Nos. 666, 3170, and 3171, respectively, and of the coals of Milliron and Milliron No. 2 Mines, Mine Index Nos. 655 and 3176, respectively. The Director is of the opinion that the original petitioner has not set forth sufficient facts to warrant the establishment of temporary price classifications and minimum prices for the mixing of the coals of the above-mentioned mines without a hearing.

Now, therefore, it is ordered, That the portion of Docket No. A-1101 relating to the coals of the Helmick Mine, Mine Index No. 927, and the Johnson No. 1 Mine, Mine Index No. 932, and to the mixing of the coals of the Beaver Nos. 1, 2, and 3 Mines, Mine Index Nos. 666, 3170, and 3171, respectively, and to the mixing of the coals of the Milliron and Milliron No. 2 Mines, Mine Index Nos. 655 and 3176, respectively, be, and the same hereby is, severed from the remainder of Docket No. A-1101 and designated as Docket No. A-1101 Part II.

It is further ordered, That a hearing in Docket No. A-1101 Part II under the applicable provisions of said Act and the rules of the Division be held on December 10, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Floyd McGown or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records

deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division in proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before December 4, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of intervenors or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board No. 1 for the establishment of price classifications and minimum prices for the coals of the Helmick Mine, Mine Index No. 927, and Johnson No. 1 Mine, Mine Index No. 932, and for the mixing of the coals of Beaver Nos. 1, 2, and 3 Mines, Mine Index Nos. 666, 3170, and 3171, respectively, and for the mixing of the coals of Milliron and Milliron No. 2 Mines, Mine Index Nos. 655 and 3176, respectively, for all shipments except truck.

It is further ordered, That, pending final disposition of Docket No. A-1101 Part II, temporary relief is granted as follows: Commencing forthwith, Price Schedule No. 1 for District No. 1, for All Shipments Except Truck, is supplemented to include the price classifications and minimum prices set forth in the schedule marked Temporary Supplement R, annexed hereto and hereby made a part hereof.

Notice is hereby given that all applications to stay, terminate or modify the temporary relief granted herein may be filed pursuant to the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: November 12, 1941.

[SEAL] H. A. GRAY,
Director.

TEMPORARY SUPPLEMENT R

NOTE: The material contained in this Temporary Supplement R is to be read in the light of the classifications, prices, instructions, exceptions and other provisions contained in Price Schedule No. 1 for this District and supplements thereto.

FOR ALL SHIPMENTS EXCEPT TRUCK

[Alphabetical listing of code members having railway loading facilities, showing price classification by size group Nos.]

Mine index No.	Code member	Mine name	Sub-dist. No.	Seam	Shipping point	Railroad	Freight origin group No.	1	2	3	4	5
927	Abram Creek Coal Company, c/o A. L. Helmick.	Helmick	44	E	Gorman, Md	WM	68	(†)	(†)	D	(†)	(†)
32	Johnson, Von B	Johnson #1	9	D	Moshannon, Pa.	NYC	44	(†)	(†)	D	(†)	(†)

†Indicates no classifications effective for these size groups.

[F. R. Doc. 41-9006; Filed, December 1, 1941; 11:11 a. m.]

[Docket Nos. A-154, A-273 and A-390]

PETITIONS OF L. F. GORDLEY, DISTRICT BOARD 6, AND DISTRICT BOARD 11

ORDER AMENDING ORDER TO SHOW CAUSE WHY PETITIONS SHOULD NOT BE DISMISSED

An Order having been issued in the above-entitled matter, dated November 5, 1941, requiring petitioners to show cause at a hearing on December 5, 1941, why their petitions should not be dismissed; such order having erroneously denominated Mine Index No. 119 of L. F. Gordley as the Pike View Mine, and it appearing that the correct name of Mine Index No. 119 is Franceville Mine;

Now, therefore, it is ordered, That the Order to Show Cause herein, dated November 5, 1941, be amended by substituting therein "Franceville Mine" for "Pike View Mine" in reference to Mine Index No. 119 of L. F. Gordley.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9064; Filed, December 2, 1941; 11:53 a. m.]

[Docket No. A-947]

PETITION OF THE BIG BEND COLLIERIES, INC., ET AL., FOR THE ESTABLISHMENT OF EFFECTIVE MINIMUM PRICES FOR SUBSTANDARD COALS PRODUCED FROM THE BRAZIL BLOCK VEIN, IN DISTRICT NO. 11

MEMORANDUM OPINION AND ORDER GRANTING TEMPORARY RELIEF

This proceeding was instituted upon a petition filed with the Bituminous Coal Division by the Big Bend Collieries, Inc., the Maumee Collieries Co., the Birch Creek Coal Company, the Mariah Hill Super Block Coal Company, Ray Morgan (F. C. Morgan Coal Company), the Dixon Block Company, Inc., and the G. & F. Corporation, code member producers in District 11, pursuant to the provisions of section 4 II (d) of the Bituminous Coal Act of 1937. The petition requests the establishment of effective minimum prices for all code member producers in Price Groups Nos. 15, 16, and 17 for substandard coals mined from the Brazil Block vein in District 11.

Petitions of intervention were filed by District Boards 9 and 10.

Pursuant to Order of the Director and after due notice to all interested persons, a hearing in this matter was held on September 18, 1941, before Charles O. Fowler, a duly designated Examiner of the Division, at Washington, D. C. All interested persons were afforded an opportunity to be present and participate fully in the hearing. Appearances were entered on behalf of the original petitioners and District Board 10. At the conclusion of the hearing, the parties waived the preparation and filing of a report by the Examiner and the record in the proceeding was thereupon submitted to the undersigned.

On September 30, 1941, the petitioners filed a motion requesting immediate temporary relief pending final determination of the matter by the Director. On October 8, 1941, District Board 10 filed an opposition to the motion for immediate temporary relief. On October 16 the petitioners filed a reply to the opposition of District Board 10. On October 18 District Board 10 filed an answer to the reply.

The petitioners request that minimum prices as set forth below for Brazil Block coal of substandard quality, i. e., coal which is soft and shelly, or soft, shelly, and stained, be established and that the relief sought be extended to all code members in Price Groups Nos. 15, 16, and 17 in District 11 producing from the Brazil Block vein. The requested prices are intended to apply only to coals shipped by rail.

District Board 10 opposes the granting of the request for immediate temporary relief, unless the granting of such relief carries with it the requirement that the determination of the substandard classi-

fication of Brazil Block coal be under the supervision of District Board 11.

The uncontradicted testimony of Hugh B. Lee, vice-president and general manager of the Maumee Collieries Company, reveals that substandard or inferior coal is fairly prevalent throughout the Brazil Block vein. The evidence further discloses that in the production of Brazil Block vein coals, producers frequently encounter coal which is substandard or inferior in quality. This coal was said to be coal which is soft or shelly. While there was some indication that stain also renders coals substandard, the petitioners indicated that no relief is sought by them with reference to coals which are stained only. The production of substandard coal presents to all producers a serious marketing problem, since this substandard coal is not acceptable in lieu of standard Brazil Block coal, yet carries the same effective minimum prices.

In the past it was the practice of producers of Brazil Block substandard coals to sell such coals at prices below those obtained for standard Brazil Block coals. Since the establishment of effective minimum prices, however, District 11 code members have been required to dispose of this inferior coal by shipping it as standard coal, and after delivery, making adjustments of price, as provided in Rule 1 of section X of the Marketing Rules and Regulations.[1] The record shows that this practice of making adjustments after the coal has reached its destination has worked to the detriment of the producers by reducing the producers' bargaining power in regard to allowances, which frequently results in forcing producers to make greater allowances than they would have had to make could the coals have originally been sold as substandard, and by creating an undesirable relationship with purchasers which tends to jeopardize future business relations.

The uncontroverted evidence shows that the average allowances heretofore made from the effective minimum prices by code members under Rule 1 of Section X of the Marketing Rules and Regulations amount to 51 cents per ton on Size Groups 1 and 2, 35 cents per ton on Size Groups 4 to 6, inclusive, and 44 cents per ton on Size Group 7. The proposed minimum prices for the substandard Brazil Block coals are 50 cents and 25 cents per ton, respectively, below the effective minimum prices for Brazil Block coals in Size Groups 1 to 3 and 4 to 7.

Harry A. Brattin, general manager of Brazil Block Fuels, Inc., a provisionally approved marketing agency, testified that the mines of all the producer-members are constantly checked for the production of substandard coal and that Brazil Block coals are classified upon the basis of three principal factors: preparation, condition, and color. He testified that on the basis of a rigid inspection by him, coals that are determined to be not of normal size, of good firm structure, and of black color are determined to be substandard and are so classified. A copy of each inspection report is sent to District Board 11.

District Board 10 claims that the coals for which minimum prices are herein proposed are shipped in active competition with coals of code members in District 10. However, while the record shows that the coals of District 10 and substandard Brazil Block coals are sold in the same market areas, it does not show that they are competing coals in terms of price valuation or consumer demand.

From an examination of the record herein, it appears that further delay in granting relief herein, pending final disposition of the petition, might jeopardize the interests of the producers of Brazil Block vein coals and that the interests of other producers will not be impaired by the granting of temporary relief herein, particularly if it is surrounded by proper and adequate safeguards. Therefore, it seems desirable to grant temporary relief until more detailed consideration can be given the complex issues here involved.

The relief herein granted reducing the effective minimum prices of substandard coals is based upon a classification of such coals made at the mine. The allowances for substandard coals permitted to be made by Rule 1, section X of the Marketing Rules and Regulations upon claims therefor being made by buyers after the coals have left the mine should therefore be inapplicable to coals sold at the reduced prices herein provided. Else producers whose coals were determined at the mine to be substandard could sell them at the reduced prices herein provided and could subsequently grant further substandard allowances upon receiving buyers' complaints. Such a practice would obviously be totally deceptive of a sound minimum price structure.

Now, therefore, it is ordered, That the motion for temporary relief filed herein on September 30, 1941, be, and it hereby is granted, and that pending final determination of the petition herein, the Schedule of Effective Minimum Prices for District No. 11 for All Shipments Except Truck be, and it hereby is, amended by adding to the price exceptions contained on page 3 of said Schedule, a new price exception to read as follows:

"The effective minimum prices established for Brazil Block vein coals produced at mines in Price Groups Nos. 15, 16, and 17, may be reduced by not more than the following amounts, where such coals are substandard, that is, soft or shelly:

Size Group Nos.:	*Maximum reduction*
1 and 2	50 cents per ton,
3	30 cents per ton,
4 to 7, inclusive	25 cents per ton,

Provided, however, That (1) the determination of the substandard classification of said coals shall be under the direct supervision of District Board 11, (2) the classification of the coals shall be made by a representative of District Board 11 at the mine, (3) said representative shall issue a certificate or notice of substandard classification which certificate or notice shall be filed with the Field Office of the Division for District 11, and (4) District Board 11 shall approve and certify all orders, acknowledgments, and invoices involving substandard coals. Certificates or notices filed with the Field Office pursuant to this Order shall contain an indication to that effect; *And provided further,* That coals sold as substandard pursuant to this Order shall not be subject to the allowances for substandard coals permitted by Rule 1, section X of the Marketing Rules and Regulations."

Nothing herein contained shall be construed as a ruling or expression of the opinion of the undersigned concerning the final disposition of this proceeding.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9065; Filed, December 2, 1941; 11:53 a. m.]

[Docket No. B-12]

IN THE MATTER OF E. H. FANNIN, CODE MEMBER, DEFENDANT

ORDER TERMINATING CODE MEMBERSHIP AND DETERMINING THE AMOUNT OF TAX REQUIRED TO BE PAID AS A CONDITION FOR REINSTATEMENT

A complaint dated September 3, 1941, in the above-entitled matter, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act") having been duly filed by Bituminous Coal Producers Board for District No. 8, complainant, with the Bituminous Coal Division (the "Division") alleging that the defendant, whose address is R. F. D. No. 1, Rush, Kentucky, wilfully violated the provisions of the Bituminous Coal Code (the "Code") or rules and regulations thereunder, and the complaint herein having been duly served upon the defendant on October 13, 1941; and

The defendant, by stipulation dated October 15, 1941, the original of which is on file with the Division, having admitted the truth of the allegations of the complaint, and having consented to the making and entry of this Order revoking the defendant's membership in the Code; and

The defendant by said stipulation dated October 15, 1941, having further agreed and consented that immediately upon the entry of the order herein above referred to, he will pay to the United

[1] Where any claim for allowance * * * is requested by a buyer for any delivery of coal claimed to be substandard in preparation or quality, * * * the Code Member, his Sales Agent, or a Distributor may, within a reasonable time after delivery of the coal, make settlement and agree with the buyer upon an amount reasonably to be deducted for such inferior coal * * * and may accept payment therefor at less than the applicable minimum price.

States Government the amount of tax, namely $18.29 agreed by him to be the amount required to be paid by sections 5 (b) and (c) of the Act on the coal hereinafter referred to, sold during the period commencing March 27, 1941, and ending April 7, 1941, as a condition to his reinstatement to membership in the Code, and the Bituminous Coal Producers Board for District No. 8, complainant herein, having recommended to the Division that it accept the agreements made herein by the defendant and enter an order in accordance therewith;

Now, therefore, pursuant to the authority vested in the Division by section 4 II (j) of the Act authorizing it to adjust complaints of violations to compose the differences of the parties thereto;

1. *It is hereby found,* That on June 20, 1937, the defendant filed with the National Bituminous Coal Commission (the "Commission") his Acceptance of the Code, dated June 19, 1937, and that said acceptance was approved by the Commission on June 29, 1937, to take effect as of June 20, 1937; that defendant has been since the last mentioned date and is now a code member in District No. 8, operating the Fannin Mine, Mine Index No. 1041, located in Carter County, Kentucky.

2. *It is hereby further found,* That the defendant wilfully violated the provisions of the Act, the Code, and the effective minimum prices established thereunder during the period commencing March 27, 1941, and ending April 7, 1941, by selling, offering for sale, and delivering to Ray Rife, approximately 10.275 net tons of high volatile run of mine coal, and approximately 10.75 net tons of high volatile 2" lump coal, produced by the defendant at his Fannin Mine, Mine Index No. 1041, located in Carter County, Kentucky, in District No. 8, at $1.70 per net ton and $2.10 per net ton, respectively, f. o. b. said mine, whereas this coal is classified as Size Groups 6 and 2 respectively, and is priced at $2.00 per net ton and $2.45 per net ton, respectively, f. o. b. the mine, in the Schedule of Effective Minimum Prices for District No. 8 for Truck Shipments.

3. *It is hereby further found,* That the amount of tax imposed by sections 5 (b) and (c) of the Act and required to be paid by the defendant as a condition to his reinstatement in the Code on the tonnage referred to in paragraph two (2) hereof, is $18.29 which amount is 39 per cent of the effective minimum price of $46.89 for said coal wilfully sold by the defendant to Ray Rife during the period commencing March 27, 1941 and ending April 7, 1941, in violation of the Code and the corresponding provisions of the Act and effective minimum prices as aforesaid.

Now, therefore, based upon the above findings and upon the agreements of the defendant consenting to the entry of an order herein cancelling and revoking his membership in the Code by reason of said violations, and also based upon the agreement of the defendant that he will immediately pay to the United States Government the amount of the tax, namely $18.29 herein found to be the amount required to be paid by the defendant pursuant to section 5 (c) of the Act as a condition to its reinstatement to membership in the Code,

It is ordered, That the membership of the above-named defendant in the Code be, and the same is, hereby cancelled and revoked.

It is further ordered, That said cancellation and revocation of the defendant's code membership shall become effective ten (10) days after date of service of this order upon the defendant.

It is further ordered, That in the event that the defendant shall fail within ten (10) days after service of this Order upon the defendant, to pay to the United States Government the sum of $18.29 herein found to be the amount of the tax imposed by section 5 (b) and (c) of the Act and required to be paid by the defendant as a condition to his reinstatement to membership in the Code, this matter may be reopened and such action taken and orders entered herein as to the Division may seem just and proper under the circumstances, and jurisdiction of this matter is hereby expressly reserved for such purposes.

Dated: December 1, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9060; Filed, December 2, 1941; 11:54 a. m.]

[Docket No. B-12]

IN THE MATTER OF E. H. FANNIN, CODE MEMBER, DEFENDANT

ORDER CANCELLING HEARING

A hearing in the above-entitled matter having been heretofore scheduled for 10 a. m. on November 14, 1941, in the Court Room, Federal Building, Catlettsburg, Kentucky; and

Said hearing having been postponed, by an Order of the Director dated November 13, 1941, to a date and at a place to be thereafter designated by an appropriate Order of the Director; and

An Order Terminating Code Membership and Determining the Amount of Tax Required to be Paid as a Condition for Reinstatement having been entered on December 1, 1941, pursuant to the stipulation of the defendant dated October 15, 1941;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be, and the same hereby is, cancelled.

Dated: December 1, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9067; Filed, December 2, 1941; 11:52 a m.]

[Docket No. 1565-FD]

IN THE MATTER OF THE CARDINAL FUEL AND SUPPLY COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 1404, DEFENDANT

ORDER FOR REINSTATEMENT OF REGISTRATION

The Director having entered an Order in the above-entitled matter dated September 16, 1941, suspending the registration of the defendant, the Cardinal Fuel and Supply Company, as a distributor, Registration No. 1404, for a period of sixty (60) days from the date of said Order; and

Said Order having been served upon the defendant on September 22, 1941; and

The Cardinal Fuel and Supply Company, defendant herein, having duly filed with the Division on November 10, 1941, an affidavit dated November 8, 1941, and on November 25, 1941, an amended affidavit dated November 24, 1941, pursuant to the provisions of said Order dated September 16, 1941, and § 304.15 of the Rules and Regulations for the Registration of Distributors; and

It appearing to the Acting Director that said amended affidavit of the Cardinal Fuel and Supply Company sufficiently complies with the provisions of said Order dated September 16, 1941, and § 304.15 of the Rules and Regulations for the Registration of Distributors.

Now, therefore, it is ordered, That the registration of the Cardinal Fuel and Supply Company as a distributor be and it hereby is reinstated.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9063; Filed, December 2, 1941; 11:52 a. m.]

[Docket No. 1689-FD]

IN THE MATTER OF NATIONAL COAL COMPANY, INC., DEFENDANT

ORDER GRANTING APPLICATION FOR RESTORATION OF CODE MEMBERSHIP

A written complaint dated May 10, 1941, having been filed herein by the Bituminous Coal Producers Board for District No. 12, pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937 (the "Act"), alleging wilful violation by the National Coal Company, Inc., Oskaloosa, Iowa, of the Bituminous Coal Code and rules and regulations thereunder; and

The Director having made Findings of Fact, Conclusions of Law and Opinion and entered on Order based thereon revoking the code membership of the National Coal Company, Inc., dated November 17, 1941, respectively, after a hearing held in the above-entitled matter on September 8, 1941, at Oskaloosa, Iowa, pursuant to an Order of the Director, dated August 5, 1941; and

Said National Coal Company, Inc., having filed with the Division, as provided in section 5 (c) of the Act, its application, dated November 26, 1941, for reinstatement of code membership to become effective from and after the payment of the tax provided in said Order of November 17, 1941; and

It appearing from said application that the National Coal Company, Inc., on November 25, 1941, paid to the Collector of Internal Revenue at Des Moines, Iowa, the sum of four thousand three hundred ninety-three dollars and thirty-nine cents ($4,393.39), as provided in said Order of November 17, 1941, as a condition precedent to reinstatement of its code membership.

It is, therefore, ordered, That said application of National Coal Company, Inc., dated November 26, 1941, for reinstatement of its code membership be granted and that the code membership of National Coal Company, Inc., be and it hereby is restored as of November 25, 1941.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9066; Filed, December 2, 1941; 11:54 a. m.]

[Docket No. 1784-FD]

IN THE MATTER OF STERLING COAL & SUPPLY COMPANY, REGISTERED DISTRIBUTOR, REGISTRATION NO. 8712, RESPONDENT

ORDER FOR REINSTATEMENT OF REGISTRATION

The Director having entered an order in the above-entitled matter dated October 30, 1941, suspending the registration of the respondent, Sterling Coal & Supply Company, as a distributor, Registration No. 8712, for a period of thirty days from the date of that order; and

The Sterling Coal & Supply Company, respondent herein, having duly filed with the Division on November 22, 1941, an affidavit dated November 21, 1941, pursuant to the provisions of said order dated October 30, 1941, and § 304.15 of the Rules and Regulations for the Registration of Distributors; and

It appearing to the Acting Director that said affidavit of Sterling Coal & Supply Company sufficiently complies with the provisions of said order dated October 30, 1941, and § 304.15 of the Rules and Regulations for the Registration of Distributors.

Now, therefore, it is ordered, That the registration of Sterling Coal & Supply Company as a distributor be and it hereby is reinstated.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9062; Filed, December 2, 1941; 11:52 a. m.]

[Docket No. 1879-FD]

IN THE MATTER OF THE APPLICATION OF THE KOPPERS COAL COMPANY FOR PERMISSION TO RECEIVE DISTRIBUTORS' DISCOUNTS ON COAL PURCHASED FOR RESALE TO KOPPERS COMPANY

NOTICE OF AND ORDER FOR POSTPONEMENT OF HEARING

The petitioner having moved that the hearing in the above-entitled matter, heretofore scheduled for December 10, 1941, be postponed to a date during the month of January 1942, and having shown good cause why motion should be granted;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be and it hereby is postponed from 10:00 in the forenoon of December 10, 1941 until 10:00 in the forenoon of January 19, 1942, at the place and before the officers heretofore designated.

Dated: November 29, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-9061; Filed, December 2, 1941; 11:53 a. m.]

Bureau of Reclamation.

FIRST FORM RECLAMATION WITHDRAWAL, PINE FLAT RESERVOIR SITE, CALIFORNIA

Correction

The land description following "Sec. 28," appearing in the third column on page 6058 of the issue for Thursday, November 27, 1941, should read as follows:

Sec. 28, N½NW¼, NW¼SE¼, N½SW¼ SE¼;

DEPARTMENT OF AGRICULTURE.

Agricultural Marketing Service.

[P. & S. Docket No. 1433]

IN RE THE BELT RAILROAD AND STOCK YARDS COMPANY, RESPONDENT

ORDER OF INQUIRY AND NOTICE OF HEARING

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. and Sup. V, §§ 181-231), and the following allegations are made:

1. The respondent is engaged in the business of conducting and operating a stockyard at Indianapolis, in the State of Indiana, which stockyard has been ascertained by the Secretary of Agriculture to be a "stockyard" within the definition thereof as used in the act, and which has been posted by the Secretary of Agriculture under the act.

2. In accordance with the requirements of the act, the respondent has heretofore filed and put into effect schedules of rates and charges for its services.

3. Upon information in the possession of the Department of Agriculture, there is reason to believe that the schedules now in effect contain rates and charges which are unreasonable and otherwise unlawful.

It is concluded that a proceeding should be instituted under the provisions of title III of the act for the purpose of determining the reasonableness and lawfulness of all rates and charges of the respondent and of any rule, regulation, or practice affecting said charges, and whether any stockyard service is rendered by the respondent without making a lawful charge therefor.

Therefore, by direction of the Secretary of Agriculture, It is ordered, That a hearing covering the matters and things alleged herein shall be held before an examiner, at a time and place of which the respondent shall have at least ten days' notice. At such hearing, the respondent, and all other interested persons, shall have a right to appear and present such evidence with respect to the matters and things alleged as may be relevant and material.

It is further ordered, That any and all interested persons, who may wish to appear and present evidence relevant to the issues in this proceeding, shall give notice thereof by filing a statement to that effect with the Hearing Clerk, Office of the Solicitor, Department of Agriculture, Washington, D. C., within twenty days from the date of the publication of this order.

It is further ordered, That a copy hereof shall be served upon the respondent by registered mail.

It is further ordered, That this order shall be published in the FEDERAL REGISTER.

Done at Washington, D. C., this 27th day of November, 1941.

[SEAL] C. W. KITCHEN,
Chief.

[F. R. Doc. 41-9053; Filed, December 2, 1941; 11:39 a. m.]

Commodity Exchange Administration.

ORDER DESIGNATING THE NEW YORK MERCANTILE EXCHANGE AS A CONTRACT MARKET FOR IRISH POTATOES UNDER THE COMMODITY EXCHANGE ACT

Pursuant to the authorization and direction contained in the Commodity Exchange Act, as amended (7 U.S.C. and Sup. V, secs. 1-17a), and as further amended by the act of Congress, approved October 9, 1940 (Public Law No. 818, 76th Cong.), I, Claude R. Wickard, Secretary of Agriculture, do hereby designate the New York Mercantile Exchange, of New York, New York, as a contract market for Irish potatoes under the Commodity Exchange Act, as amended, effective December 1, 1941, said

exchange having applied for, and having otherwise complied with the conditions imposed by said act precedent to, such designation. Said designation is subject hereafter to suspension or revocation in accordance with the provisions of said act: *Provided*, That for the purpose of such suspension or revocation, such designation and the order issued by the Secretary of Agriculture on September 11, 1936, designating the said exchange as a contract market under the provisions of the Commodity Exchange Act, shall constitute a single designation.

Done at Washington, D. C., this 28th day of November 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

[F. R. Doc. 41-9037; Filed, December 1, 1941; 2:51 p. m.]

Surplus Marketing Administration.

DETERMINATION PURSUANT TO SECTION 608c (9) AND (17), TITLE 7, U.S.C., WITH RESPECT TO THE ISSUANCE OF AMENDMENT NO. 1 TO ORDER NO. 20, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE LA PORTE COUNTY, INDIANA, MARKETING AREA [1]

Grover B. Hill, Acting Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, issued, effective September 1, 1941, Order No. 20, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area.

Paul H. Appleby, Acting Secretary of Agriculture, tentatively approved, on July 23, 1941, a marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area.

There being reason to believe that the execution of amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area would tend to effectuate the declared policy of said act, notice was given, on September 4, 1941, of a public hearing which was held in La Porte, Indiana, on September 16, 1941, on certain proposals to amend such marketing agreement, as amended, and such order, as amended, and at such time and place all interested parties were afforded an opportunity to be heard on the proposals to amend such marketing agreement, as amended, and such order, as amended.

After such hearing and after the tentative approval on October 31, 1941, of amendments to the marketing agreement, as amended, regulating the handling of milk in the La Porte County, Indiana, marketing area, handlers of more than fifty (50) percent of the volume of milk covered by this order, as amended, which is marketed within the La Porte County, Indiana, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk.

It is hereby determined, pursuant to the powers conferred upon the Secretary of Agriculture by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, that:

1. The refusal or failure of said handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

2. The issuance of Amendment No. 1 to Order No. 20, as amended, is the only practical means pursuant to such policy of advancing the interests of the producers of milk which is produced for sale in the La Porte County, Indiana, marketing area; and

3. The issuance of Amendment No. 1 to Order No. 20, as amended, is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of July 1941, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

Done at Washington, D. C., this 27th day of November 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT,
The President of the United States.

Dated: November 27, 1941.

[F. R. Doc. 41-9072; Filed, December 2, 1941; 11:40 a. m.]

DETERMINATION PURSUANT TO SECTION 608c (9) AND (17), TITLE 7, U.S.C., WITH RESPECT TO THE ISSUANCE OF AMENDMENT NO. 1 TO ORDER NO. 32, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE FORT WAYNE, INDIANA, MARKETING AREA [1]

Claude R. Wickard, Secretary of Agriculture of the United States of America, pursuant to the powers conferred upon the Secretary by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, issued, effective August 8, 1941, Order No. 32, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area.

Paul H. Appleby, Acting Secretary of Agriculture, tentatively approved, on July 14, 1941, a marketing agreement, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area.

There being reason to believe that the execution of amendments to the tentatively approved marketing agreement, as amended, and to the order, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area would tend to effectuate the declared policy of said act, notice was given, on August 26, 1941, of a public hearing which was held in Fort Wayne, Indiana, on September 15, 1941, on certain proposals to amend such marketing agreement, as amended, and such order, as amended, and at such time and place all interested parties were afforded an opportunity to be heard on the proposals to amend such marketing agreement, as amended, and such order, as amended.

After such hearing and after the tentative approval on October 28, 1941, of amendments to the marketing agreement, as amended, regulating the handling of milk in the Fort Wayne, Indiana, marketing area, handlers of more than fifty (50) percent of the volume of milk covered by this order, as amended, which is marketed within the Fort Wayne, Indiana, marketing area, refused or failed to sign such tentatively approved marketing agreement, as amended, relating to milk.

It is hereby determined, pursuant to the powers conferred upon the Secretary of Agriculture by Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, that:

1. The refusal or failure of said handlers to sign said tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act;

2. The issuance of Amendment No. 1 to Order No. 32, as amended, is the only practical means pursuant to such policy of advancing the interests of the producers of milk which is produced for sale in the Fort Wayne, Indiana, marketing area; and

3. The issuance of Amendment No. 1 to Order No. 32, as amended, is approved or favored by over two-thirds of the producers who participated in a referendum conducted by the Secretary and who, during the month of July 1941, said month having been determined by the Secretary to be a representative period, were engaged in the production of milk for sale in said area.

Done at Washington, D. C., this 25th day of November 1941. Witness my hand and seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT,
The President of the United States.

Dated: November 26, 1941.

[F. R. Doc. 41-9074; Filed, December 2, 1941; 11:41 a. m.]

---

[1] See Title 7, Agriculture, Chapter IX, Surplus Marketing Administration, *supra*.

DETERMINATION, APPROVED BY THE PRESIDENT OF THE UNITED STATES, WITH RESPECT TO THE ISSUANCE OF AN ORDER, AS AMENDED, REGULATING THE HANDLING OF MILK IN THE FALL RIVER, MASSACHUSETTS, MARKETING AREA [1]

The Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary"), acting pursuant to Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (hereinafter referred to as the "act"), issued, effective June 1, 1940, an order regulating the handling of milk in the Fall River, Massachusetts, marketing area.

The Secretary tentatively approved, on April 25, 1940, a marketing agreement regulating the handling of milk in the Fall River, Massachusetts, marketing area.

The Secretary, having reason to believe that the execution of an amendment to said order would tend to effectuate the declared policy of the act, with respect to the handling of milk in the Fall River, Massachusetts, marketing area, conducted a public hearing in Westport, Massachusetts, on October 28, 1940, pursuant to notice duly given to all interested parties, on said proposed amendments to the tentatively approved marketing agreement and the said order; and at the aforesaid hearing all interested parties in attendance were afforded due opportunity to be heard concerning said proposed amendments. The aforesaid hearing, held in Westport, Massachusetts, on October 28, 1940, was reopened, pursuant to notice duly given, and said reopened hearing was held in Westport, Massachusetts, on May 19, 1941, and September 3, 1941; and at the reopened hearings on May 19, 1941, and September 3, 1941, respectively, all interested parties in attendance were afforded due opportunity to be heard concerning the aforesaid proposed amendments.

The marketing agreement, as amended, drafted pursuant to the aforesaid hearings on October 28, 1940, May 19, 1941, and September 3, 1941, was tentatively approved by the Secretary on October 16, 1941. Subsequent to the tentative approval of the marketing agreement, as amended, handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity covered by the proposed order, as amended) of more than 50 percent of the volume of milk covered by the proposed order, as amended, refused or failed to sign such tentatively approved marketing agreement, as amended.

[1] See Title 7, Agriculture, Chapter IX, Surplus Marketing Administration, *supra*.

Now, therefore, pursuant to the provisions of the act, it is hereby determined that:

(1) The refusal or failure of the said handlers to sign the aforesaid tentatively approved marketing agreement, as amended, tends to prevent the effectuation of the declared policy of the act with respect to the commodity covered by the proposed order, as amended;

(2) The issuance of the proposed order, as amended, which regulates the handling of milk in the same manner as the tentatively approved marketing agreement, as amended, and is applicable only to persons in the respective classes of industrial or commercial activity specified in the said tentatively approved marketing agreement, as amended, is the only practical means, pursuant to the act, of advancing the interests of the producers of milk which is produced for sale in the Fall River, Massachusetts, marketing area; and

(3) The issuance of the proposed order, as amended, is approved or favored by over two-thirds of the producers who participated in the referendum conducted by the Secretary, and who, during the month of June 1941 (the said month having been determined by the Secretary to be a representative period), were engaged in the production of milk for sale in the Fall River, Massachusetts, marketing area.

Issued at Washington, D. C., on this 25th day of November 1941. Witness my hand and the seal of the Department of Agriculture.

[SEAL] CLAUDE R. WICKARD,
Secretary of Agriculture.

Approved:

FRANKLIN D ROOSEVELT
The President of the United States.

Dated: November 26, 1941.

[F. R. Doc. 41-9073; Filed, December 2, 1941; 11:40 a. m.]

CIVIL AERONAUTICS BOARD.

[Docket No. SR-182]

IN THE MATTER OF TRUETT JONES, RESPONDENT, HOLDER OF STUDENT PILOT CERTIFICATE NO. 78508

ORDER ASSIGNING ORAL ARGUMENT

At a session of the Civil Aeronautics Board held at its office in Washington, D. C., on the 28th day of November 1941.

Acting pursuant to the Civil Aeronautics Act of 1938, as amended, particularly sections 609 and 1004 (a) of said Act, the above entitled proceeding, being a hearing pursuant to a complaint filed by the Administrator alleging certain violations of the Civil Air Regulations, is hereby assigned for oral argument, before the Board, on the 4th day of December 1941, 10:00 a. m. (Eastern Standard Time) in Room 5042, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D. C.

Dated: November 28, 1941.

By the Board.

[SEAL] DARWIN CHARLES BROWN,
Secretary.

[F. R. Doc. 41-9042; Filed, December 2, 1941; 9:32 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4567]

IN THE MATTER OF W. A. HOUSTON, INDIVIDUALLY AND TRADING UNDER THE NAME HOUSTON'S MINERAL WELL

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of November, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That James A. Purcell, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 15, 1941, at ten o'clock in the forenoon of that day (central standard time) in Room 214, Federal Building, Knoxville, Tennessee.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-9047; Filed, December 2, 1941; 11:23 a. m.]

[Docket No. 4579]

IN THE MATTER OF WOODFINISHING PRODUCTS COMPANY ET AL.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 29th day of November, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That James A. Purcell, a trial examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, December 8, 1941, at two o'clock in the afternoon of that day (Eastern Standard Time), in Federal Court Room, Second Floor, Post Office Building, Winston-Salem, North Carolina.

Upon completion of testimony for the Federal Trade Commission, the trial examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The trial examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-9048; Filed, December 2, 1941; 11:23 a. m.]

OFFICE OF PRODUCTION MANAGEMENT.

Division of Priorities.

NOTICE OF EXTENSION OF PREFERENCE RATING ORDER NO. P-33

Preference Rating Order No. P-33 has been amended to change the rating from B-1 to A-8 and, as so amended, has been extended to expire February 14, 1942.

Dated: November 29, 1941.

DONALD M. NELSON,
Director of Priorities.

[F. R. Doc. 41-9036; Filed, December 1, 1941; 2:45 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-450]

IN THE MATTER OF ASSOCIATED ELECTRIC COMPANY AND CENTRAL U. S. UTILITIES COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of December, A. D. 1941.

Notice is hereby given that an application and declarations have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by Associated Electric Company, a registered holding company, and by Central U. S. Utilities Company, also a registered holding company and direct subsidiary of Associated Electric Company;

Notice is further given that any interested person may, not later than December 19, 1941 at 4:45 P. M. E. S. T. request the Commission in writing that a hearing be held on this matter stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter, such application and declarations as filed or as amended may be granted and may become effective as provided in Rule U-23 of the rules and regulations promulgated pursuant to said Act, or the Commission may exempt such transactions as provided in Rules U-20 (c) and Rule 100 thereof. Any such request should be addressed: Secretary of the Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said application and declarations which are on file in the office of this Commission for a statement of the transactions therein proposed which are summarized as follows:

Associated Electric Company, a Delaware corporation, a registered holding company, and a subsidiary of Denis J. Driscoll and Willard L. Thorp, Trustees of Associated Gas and Electric Corporation, proposes to acquire by merger all of the assets of Central U. S. Utilities Company, also a registered holding company and direct subsidiary of Associated Electric Company. In consideration for these assets of Central U. S. Utilities Company, which consist primarily of common stocks of operating public utilities (there being twenty-seven such companies involved, the securities of which, including $14,684,569 carrying value of bonds and notes, aggregate $77,312,955 carrying value) and $34,054,-182 accounts receivable, Associated Electric Company proposes to surrender to Central U. S. Utilities Company for cancellation all of the outstanding common stock of Central U. S. Utilities Company, which is presently owned by Associated Electric Company, and further, Associated Electric Company proposes to assume the present public securities of Central U. S. Utilities Company which as at September 30, 1941 amounted to $350,000 in the form of a nine-months' promissory note payable December 1, 1941 and bearing interest at the rate of 2½%.

The filings contain a request that the Commission take whatever action thereon is necessary by December 29, 1941 in order to allow Associated Electric Company to file a certificate of ownership of all assets of Central U. S. Utilities Company with the Secretary of State of the State of Delaware not later than December 31, 1941.

The applicant-declarants have designated sections 9 (a) (1), 10, 12 (d) and Rules U-42 and U-43 as applicable to the proposed transactions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-9051; Filed, December 2, 1941; 11:36 a m.]

[File No. 70-442]

IN THE MATTER OF NORTHERN STATES POWER COMPANY (MINNESOTA) AND MIDLAND PUBLIC SERVICE COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of November, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties; and

Notice is further given that any interested person may, not later than December 11, 1941, at 4:45 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or any request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Midland Public Service Company and Northern States Power Company (Wisconsin) are both public utility subsidiary companies of Northern States Power Company (Minnesota), a registered holding public-utility company. Midland Public Service Company which is wholly owned proposes to sell all of the properties, real, personal, and mixed, of every kind and description, owned or held for use by it to Northern States Power Company (Wisconsin) for a consideration of $205,244.98 of which $198,365 will be in cash.

As and when the disposition of the Midland Public Service Company's property has been consummated, Northern States Power Company (Minnesota) proposes to surrender to Midland Public Service Company for cancellation all of the issued and outstanding capital stock of Midland Public Service Company, and to cancel the open account indebtedness owing by Midland Public Service Company to Northern States Power Company (Minnesota) for all of the cash and other net assets, if any, of Midland Public Service Company which, thereupon, will be dissolved forthwith in accordance with the laws of the state of Wisconsin.

The joint application states that no underwriters' fees or commissions will be paid, and that it is estimated that the expenses in connection with this application will not exceed the sum of $500

as to Midland Public Service Company and $500 as to Northern States Power Company (Minnesota).

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-9052; Filed, December 2, 1941; 11:36 a. m.]

[File Nos. 70-438, 70-422]

IN THE MATTERS OF COLUMBIA GAS & ELECTRIC CORPORATION AND COLUMBIA OIL & GASOLINE CORPORATION

ORDER PERMITTING DECLARATIONS TO BECOME EFFECTIVE IN PART AND RESERVING JURISDICTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of December, A. D. 1941.

The above-named parties having filed their several declarations pursuant to the Public Utility Holding Company Act of 1935, particularly sections 9, 10, 12 (c) and 12 (f) and Rules U-42 and U-43, regarding the following transactions:

Columbia Gas & Electric Corporation, a registered holding company and subsidiary of The United Corporation, also a registered holding company, proposes to dispose of, and Columbia Oil & Gasoline Corporation, a subsidiary of Columbia Gas & Electric Corporation, proposes to acquire $300,000 face amount of the subsidiary's debentures held by the parent, for $312,000 in cash plus accrued interest, such amount being the redemption price specified in the indenture securing such debentures; the debentures so acquired to be tendered to the Trustee under the indenture in lieu of the semi-annual cash sinking fund required under the provisions of said indenture.

Notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act, and the Commission not having received a request for a hearing with respect to said declarations within the period specified in said notice or otherwise, and not having ordered a hearing thereon; and

The above-named parties having stated in their declarations that there may be problems in connection with the payment of the $12,000 premium in addition to the face amount of $300,000 for the said debentures which would be time-consuming and which are present in another pending proceeding (File No. 59-33) concerning the payment of a more substantial principal amount of debentures than is here involved; and having, therefore, suggested that an order be entered permitting the sale by Columbia Gas & Electric Corporation to Columbia Oil & Gasoline Corporation of $300,000 principal amount of debentures for immediate payment of $300,000 plus accrued interest in cash, the Commission reserving jurisdiction over the payment of the additional amount of $12,000 for consideration and determination at a later date; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit such declarations to become effective to the extent suggested by the parties and that the date thereof should be advanced;

It is hereby ordered, Pursuant to Rule U-23 and the applicable provisions of the Act and subject to the terms and conditions prescribed in Rule U-24 that the aforesaid declarations be and hereby are permitted to become effective to the extent that they contemplate the sale by Columbia Gas & Electric Corporation and the corresponding purchase by Columbia Oil & Gasoline Corporation of $300,000 face amount of the latter's debentures for $300,000 in cash plus accrued interest; jurisdiction being hereby expressly reserved to pass upon the problems with respect to the payment of the $12,000 premium payable by Columbia Oil & Gasoline Corporation to Columbia Gas & Electric Corporation under the terms of the indenture securing the said debentures, either on motion of the Commission or at the request of Columbia Gas & Electric Corporation.

By the Commission, Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-9057; Filed, December 2, 1941; 11:47 a. m.]

[File No. 70-429]

IN THE MATTER OF UNION ELECTRIC COMPANY OF MISSOURI AND UNION ELECTRIC COMPANY OF ILLINOIS

ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its offices in the City of Washington, D. C., on the 1st day of December, A. D. 1941.

Union Electric Company of Missouri, a registered holding company, and Union Electric Company of Illinois, its subsidiary, having filed a joint application and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (b) and 10 and Rule U-44 promulgated thereunder regarding: The proposal of Union Electric Company of Missouri (a) to acquire for cash from time to time during the period ending June 30, 1942, 150,000 shares of additional common stock having an aggregate par value of $3,000,000 of its subsidiary, Union Electric Company of Illinois; and (b) to pledge under its First Mortgage and Deed of Trust the 150,000 shares of the common stock of its said subsidiary, so to be acquired by it; and the proposal of Union Electric Company of Illinois to issue and sell to Union Electric Company of Missouri for cash from time to time during the period ending June 30, 1942, 150,000 shares of its common stock having an aggregate par value of $3,000,000 and to use the proceeds therefrom to finance its construction program.

Said application having been filed on November 7, 1941, and an amendment having been filed on December 1, 1941, and notice of said filing having been duly given in the form and manner prescribed by Rule U-23 promulgated pursuant to said Act; and the Commission not having received a request for a hearing with respect to said application within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The above named applicants having requested that said application as amended be granted on or before December 1, 1941; and

The Commission finding with respect to the said application under section 6 (b) of said Act that the requirements of section 6 (b) have been satisfied, and with respect to said application under section 10 of said Act that no adverse findings are necessary under section 10 (b) and 10 (c) (1), and that the transaction has the tendency required by section 10 (c) (2) of said Act; that the date of its order with respect to said application, as amended, should be advanced;

It is hereby ordered, Pursuant to said Rule U-23 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-24 that the aforesaid application, as amended, be, and the same is, hereby granted.

By the Commission, Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-9058; Filed, December 2, 1941; 11:48 a. m.

[File No. 60-11]

IN THE MATTER OF ASSOCIATED ELECTRIC COMPANY

ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of December, A. D. 1941.

The Commission having heretofore issued its Notice of and Order for Hearing pursuant to section 12 (c) of the Public Utility Holding Company Act of 1935 and Rule U-12C-2 promulgated thereunder, which order directed Associated Electric Company to show cause why this Commission should not enter its order, preventing the declaration of dividends on the capital stock of such company; public hearings having been held thereon at which the Commission and Respondent were represented by counsel; no representative of Federal, State or municipal

governments or political subdivision thereof or any individual having requested to be heard or otherwise participate in the proceedings;

Upon the completion of the Commission's case the respondent having requested and received a postponement during which to examine the evidence and related matters and prepare cross-examination; it now being represented that such an examination will be impossible of completion for a considerable period of time; counsel for respondent having executed a certain Consent of Respondent to Order, dated November 24, 1941, on behalf of respondent, which has been placed in the record in these proceedings, and which consents to the entry by the Commission of an order as hereinafter provided, subject to the provision that said Consent does not constitute a waiver, default, or admission of allegations heretofore made in these proceedings, or a waiver of any constitutional or legal rights of said respondent, as more fully provided in said Consent;

It appears to the Commission that the entry of an order containing the provisions hereinafter set forth is appropriate to protect the financial integrity of Associated Electric Company, and is otherwise in accordance with the provisions of the Public Utility Holding Company Act of 1935, particularly section 12 (c) thereof;

It is therefore ordered, That Associated Electric Company shall not declare or pay any dividends upon its capital stock unless the consent and approval of the Commission is first obtained;

It is further ordered, That the issuance of this order shall be without prejudice to the right of Associated Electric Company to request at any future time a modification or a vacation of this order, and shall be without prejudice to the institution by the Commission at any time of any further proceedings pursuant to the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-9059; Filed, December 2, 1941; 11:48 a. m.]

[File No. 70-451]

IN THE MATTER OF PHILADELPHIA ELECTRIC COMPANY

NOTICE REGARDING FILING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2d day of December, A. D. 1941.

Notice is hereby given that a declaration or application (or both), has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party or parties; and

Notice is further given that any interested person may, not later than December 10, 1941 at 4:30 P. M., E. S. T., or 1:00 P. M., E. S. T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Philadelphia Electric Company, a Pennsylvania corporation and a subsidiary of The United Gas Improvement Company, a registered holding company, proposes to issue, as of February 1, 1942, not exceeding 280,058 shares of preferred stock (cumulative, par value $100 per share) the dividend rate to be supplied by amendment. It is proposed to offer said preferred stock in exchange, share for share, to the holders of the presently outstanding 280,058 shares of $5 Dividend Cumulative Preferred stock without par value. It is further proposed to redeem, on February 1, 1942, such shares of said outstanding $5 Dividend Preferred Stock as are not exchanged pursuant to said exchange offer, at the redemption price of $100 per share. It is stated that funds for such redemption will be provided from the treasury of the company, or from bank loans. The offer of exchange will be conditioned upon requisite stockholders' action authorizing the new preferred stock, at a special meeting to be held on January 31, 1942, and necessary approvals of regulatory bodies being in effect.

The period from December 18, 1941 to December 30, 1941 is proposed to be provided for exchanges. The plan of exchange provides for Interim Receipts to be issued to Stockholders who accept the exchange offer, said Interim Receipts to be exchangeable on or as soon after February 2, 1942 as new preferred stock certificates are ready for delivery. It is stated that the Interim Receipts will provide that if the new preferred stock is not authorized the holders of the Interim Receipts shall be entitled to $110 per share, represented thereby, plus an amount in lieu of dividends from November 1, 1941.

Incidental to the issue of the new preferred stock, there will be certain changes in voting and other rights of the common stockholders.

In connection with said application or declaration, Philadelphia Electric Company has applied for exemption of the proposed transactions from the Commission's competitive bidding rule.

The application or declaration designates sections 6 (b) and 12 (c) of the Act and Rule U-42 thereunder as applicable to the proposed transaction.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-9055; Filed, December 2, 1941; 11:47 a. m.]

[File No. 70-347]

IN THE MATTER OF SOUTHWESTERN DEVELOPMENT COMPANY

SUPPLEMENTAL NOTICE REGARDING FILING OF AMENDMENT

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of December, A. D. 1941.

Notice is hereby given that an amendment to a pending application or declaration (or both) has been filed with the Commission pursuant to the Public Utility Holding Company Act of 1935 by the above-named party; and

Notice is further given that any interested person may, not later than December 6, 1941, at 4:30 P. M., E. S. T., or 1:00 P. M., E. S. T., if such date be a Saturday, request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-23 of the Rules and Regulations promulgated pursuant to said Act or the Commission may exempt such transaction as provided in Rules U-20 (a) and U-100 thereof. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration or application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Southwestern Development Company, a registered holding company and subsidiary of The Mission Oil Company, also a registered holding company, by an

amendment to its pending application (notification of filing of which was given on the 16th day of July, 1941, Holding Company Act Release No. 2888), now proposes, among other things: to have extended the maturity date of $5,721,000 principal amount of First Mortgage Bonds and $857,000 principal amount of 6% Debentures of Natural Gas Pipeline Company of America, pledged to secure applicant's indebtedness under a Loan Agreement with Guaranty Trust Company of New York; in event of default under indenture as supplemented to permit subordination of existing bonds to a new Series B First Mortgage Bonds in the amount of $17,500,000, to be issued by Natural Gas Pipeline Company of America under a supplemental indenture; to reduce Southwestern Development Company's indebtedness to Guaranty Trust Company by $856,000, which represents the proceeds to be received from the retirement by Natural Gas Pipeline Company of America of $6,000,000 of its presently outstanding indebtedness, all of which is owned by applicant and five other corporations.

Applicant has designated Sections 7 and 10 of the Act as applicable to the proposed transactions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-9056; Filed, December 2, 1941; 11:47 a m.]